

THE
OFFICE AND
AUTHORITIE
OF SHERIFES.

Abridged by the former Au-
thor MICH. DALTON,
of Lincolnes Inne,
Esquire.

Mon entent est de bon amour.



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TO THE RIGHT
Honourable, THOMAS, Lord
Caunterie of Allesburrrough, Lord
Keeper of the Great Seale of Eng-
land, and one of his Maie-
sties most Honourable Pri-
uie Councell.

Right Honourable,

THe Office of a Sherife, as
it is a Place of great Au-
thoritie and Trust, in the
gouernment of this Com-
monwealth, so withall is it and Office of
great perill and danger, not onely to the
Sherife himselfe, but also to the Kings
Maiestie, and to his Subiects in gene-
rall, if the same be not truly and care-
fully executed in euerie behalfe. It were
therefore meet, that such as shall be ap-
pointed thereto be men of Worth and

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Note, not onely for the sufficiencie of their estate, but also for their sinceritie and honestie: Neither are all these sufficient, where the High-Sherife shall trust his Under-Sherife with the whole businesse. And it is further to be wished, That the Gentlemen of the Country, upon whom the burthen of this office lieth, would keepe this their Office in their hands, and their Under-Sherife in their houses, that so by their continuall eye ouer their Officers, & care of their businesse, they might the better discharge their dutie herein. And for that I conceiued, that a plaine discoverie of this Office would giue encouragement to the Gentrie, so to undertake the same, the consideration thereof caused me formerly to present to the view of the world, my Labours in this Businesse (though before they came to any ripenesse: And albeit I haue since learned litle of the Mysteries and secretes of the same Office (I meane as it is commonly practised by some vnder Sherifes) and therefore cannot yet bring it to any perfection: Nevertheless I thought it fit according to

DEDICATORIE.

my poore abilitie still to endeavor my selfe therein, and to bring the same at least to a more short, easie, and readie Method. And accordingly I have herein set down their Authoritie and Office, far more plainly and briefly than before, with reference to my booke at large, where the Reader may receive more full satisfaction. And I have presumed to labour in this businesse, the rather to give occasion to others, better able and experienced, to perfect a worke so needfull. I acknowledge this my weak undertaking, farre unworthy of your Lordships iudicious Eyes, much more unworthie so great a Patronage; and yet for that I stand bound in duty to submit and lay downe my Labours where I owe my Service; and againe for that your Lordship in regard of your high Place, hath a principall charge under the Kings Maiestie, for the appointing and naming of these great Officers of Iustice; and in regard of your profound Iudgement, Wisedome, and Experience, your Lordship is best able to iudge of the mischiefes, and to give remedie therein;

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as also for that I have a peculiar relation to that Honorable Court, where your Lordship is supreme Iudge: To you therefore I humbly and submissively present this little Treatise. The God of Heaven and Earth preserve your Honour long amongst us, to the good of his Church, and of this Commonwealth.

Your Lordships,

in all humble dutie,

MICH. DALTON.



To the Noble and
Right worthy Knight
Sir Gyles Alington.

Sir,



Hough it bee most safe and
easie for a man (with the
Psalmist) to commune
with his owne heart in si-
lence, according whereto the Prouerbe
also sayth, Bene vixit qui bene latuit;
yet for that it is more behoonefull to
the Common good (either in Church, or
Common wealth, for one of which all
men are ordained) that such Talent
wherewith God hath enabled any, bee it
neuer so small, should bee employed and
communicated to the good of others;
The consideration hereof hath mooued
me,

me to aduenture this, (as other my former weake Labours) to the view of the World. And although I haue offred in this my labour, to the honourable Patronage of one to whom I am in dutie bound; yet withall, out of that respect which I doe owe to you, I am bold to tender also this little Treatise to your view, and to desire your acceptance hereof, as a token of my Love to you, to whom I must acknowledge my selfe, for many your fauours, much obliged, and shall euer remaine,

Your brother in law,

vnfainedly honoring you,

MICH. DALTON.

Countie of Justice



the Countie of Justice

The Office and Authoritie of Sherifes.

the Countie of Justice

CHAP. I.

Their Name, Antiquity, & Charge.

the Countie of Justice



Comes, The Earle or Countee, had aniently the government of the Countie or Shire vnder the King, and that charge and custodie which the Sherife now hath for the executing of all matters of Iustice, was aniently committed to the Earle.

Comes

Viccomes, the Sherife, est vicem gerens, seu vicarius Comitatus, or is as the Earles Deputie, and was first ordained to doe that seruice in the executing of

Viccomes

the Countie

A

matters

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matters of Iustice within the Countie in the absence of the Earle, which the Earle should doe.

After Barles by reason of their high employments and attendance vpon the King (being not able to follow the businesse of the Countie) were delivered of that burthen, (onely enjoying the honour) and the authoritie for the administration and execution of Iustice, which the Earle formerly had, is now committed to the Sherife.

And yet the Sherife hath this his authoritie from the King, by his Letters Patents immediately, and not from the Earle.

Subnecomes.

And the Sherife may make his Deputie, *scz.* his Vndersherife, who in matters concerning their ministeriall Office at this day wholly executeth the place in the right of the High-sherife.

But where the Sherife hath a iudicial power, or is made Iudge of the cause, there it seemeth hee must execute it in person, and not by his Vndersherife, or other Deputie. See hereof *hic*, *Cap. 4.*

Sherifes

The Office of a Sherife. 2

Sherifes were long before the Conquest, and were first ordained by King *Alfred*, about *An' 872*. as some write: yet others thinke them to haue bin long time before.

Their antiquitie.

They are the Kings Deputies within their Countie, and their charge is to defend and keep the Kings peace within their said Countie, and to suppress and punish malefactors there; to execute the commandements, Procelle, and Precepts of the King and his Iustices, and to keepe the Kings rights of his Crowne within their Countie. Charge.

They are also to bee attendant vpon the King in time of warre; and to cause all the People of their Countie to goe with the King for to defend the Land against the Kings enemies.

They also haue the administration of Iustice (in some cases) committed vnto their charge within their Countie, *scz.* within their Tournie they are to enquire of and deale with matters concerning the King & Commonwealth, and in their Countie-Court, to heare and determine particular suits & mat-

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First. **What manner of persons.** They be betweene partie and partie. They must therefore be men of sufficient estate of lands within the same Countie, and such as may attend it wholly.

Second. They are (vsually) to be nominated yearly by the Lords, &c. and after are appointed by the King.

Their election or nomination shall be yearly in the morrow after *Al Sente*, at the Exchequer.

Determinable. This Office is determinable at the Kings pleasure. But it cannot bee determined or apporcioned as for one Towne or Hundred, or other part of the Shire, but must continue entire for the whole Countie: except where any Town is made a Countie of it selfe, and hath a Sheriffe within the same Towne, &c.

Neither can this Office bee determined nor any part thereof, vntill a new Sheriffe be made, except by death of the King, or of the Sheriffe.

Neither may the Sheriffe be abridged of any thing incident or belonging to his Office.

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CHAP. 2.

THe new elect Sherife at his entrance into his Office must first (by himselfe or his Deputie) enter Recognisance with sufficient sureties in the Exchequer (in the Kings Remembrancers Office there) before hee receives his Patent, or exerciseth any part of his Office, *sub poena* a hundred pounds.

1. Must enter Recogn.

The forme of the Condition of which Recognisance you may see by Capl 125.

Next, he must procure his Patents, (from one of the Clerkes of the Chancerie) *see.*

2. Must procure his Patents.

The Patent of his Office, whereby the custodie of the Countie is committed to him.

The Patent of Assistance, whereby all the Kings Subjects within that Countie are commanded to be ayding to him.

He must also procure a writ of discharge

A 3

charge

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charge to the old Sherife, to discharge him out of his Office; the which would be deliuered with speed, for vntill that be deliuered to the old Sherife, he may still doe execution of all Procelle, or other thing belonging to his Office.

Must take
his Oathes.

Also the new Sherife (before he meddles in his Office) must take two corporall Oathes,

The one, to the Kings supremacie.

The other, concerning the due execution of his office.

These Oathes may bee taken before one of the Iudges of the Assises of that Countie, or before a Master of the Chancerie, or else before Commissioners in the Countie, by a *Dedimus potestatem*: The retorne whereof see *hic*, Chap. 81.

But vntill the new Sherife hath taken these oaths, hee may not intermeddle in his office.

If he shall exercise his Office before he hath taken both these Oaths, he is fineable in the Star-Chamber.

So if he shall not performe his oath concerning his office (in euery behalfe)

he

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he is fineable as aforefaid : beſides, it is perurie.

The parts of his Oath concerning his Office, are theſe.

First, Truly to keepe the Kings rights of his Crowne, ſc. his Lands, rents, franchiſes, ſuits, &c.

Secondly, Not to reſpite the K. debts

Thirdly, to doe right to all in all things belonging to his Office.

Fourthly, to acquite at the Exchequer the Kings Debtors, hee hauing receiued their debt.

Fiftly, truly to ſerue and returne all Writs.

Sixtly, Not to haue to his Vnderſherife any of the Sherifes Clerks of the ^{Nat.} yeare laſt paſt.

Seuenthly, to take no Bayliſes but ſuch as he will anſwer for, and ſuch as be true and ſufficient in the Countie.

Eightly, To make each of his Bayliſes be ſworne for the true execution of their Office.

Ninthly, to receiue no writ vnſealed.

Nor any ſealed, but by juſtices hauing authoritie, &c.

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10 To suppress Heresies, (called Lollaries) and to assist the Ordinarie therein. See *hic* Cap. 100.

11 To bee resident in his Countie, except by licence.

12 Not let to farme his Sherifwick, nor any Bailiwick.

13 To set and returne reasonable and due issues, after the estate of the parties.

Nota.

14 To make the Pannels himselfe, and of persons dwelling neere, sufficient, and not suspect nor procured.

15 To execute the Statutes of Winchester, and of Vagabonds.

Now concerning the statute of Winchester, the Sherife

1 First, is to proclaime the same statute in euerie Hundred of his countie, and in euerie Market towne (by his Baylifes) foure times in the yeare; yet this seemeth now little in vse.

2 He is to keepe horses and armor, to follow hue and crie.

3 If any suspected persons shall be taken vpon Hue and crie, or by the Constables or townesmen vpon their Watches

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Watches by night or by day, and shall be deliuered to the Sherif, he is to inroll the same, and to commit them vntill the comming of the Iustices of Gaole deliuerie; and in the meane time the Sherife is to enquire of the offendour by a Iurie, whose presentment therein he must return before the said Iustices, with the bodies of the offenders: But now these Offenders are dealt withall by the Iustices of peace at the Sessions, and therefore the Sherife not troubled with them, (as it seemeth) otherwise than by enquirie in their Torne, which see *hic postea Cap. 107.*

But concerning the Statutes of Vagabonds, I see not what the Sherife is to doe by vertue of his Oath, (or Office, by any Statute now in force in that behalfe) saue only to arrest & commit them as suspected persons. *Hic cap. 4.*

The Sherife also is to take the Oath of Allegiance whensoever it shall bee lawfully tendred to him.

The new Sherife (at or before his first Countie Court, or vpon the writ of discharge deliuered to his predecessor)

4 Must take
all prisoners
and Writs.

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sors) must take ouer from the old Sherife, all his prisoners (which are in the Gaole) by their names, and all his writs precisely by view, and by Indenture to be made betweene the old Sherife and the new.

These Indentures must contain and expresse,

1 All the causes which the old Sherife hath against euerie prisoner (at the perill of the old Sherife) with the prisoners names.

2 All Writs, with the names of the Plaintifes and of the Defendants, and the dayes of the Retorne.

For the new Sherife shall bee charged onely with such prisoners, and with such causes (or Executions) wherof he shall haue notice giuen him from the old Sherife.

The new Sherife is not bound to receiue any prisoner from the old Sherife, but onely at the Gaole : And yet if the new Sherife shall receiue the prisoner out of the Gaole, the old sherife is discharged by such deliuerie, and receiuing of the prisoner.

Also

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Also the new Sherife may compell the old Sherife to make deliuey by Indentures, of all prisoners, and of all executions against them, and yet if the new Sherife will receiue them otherwise, it sufficeth.

But where the old Sherife shall happen to die during the time of his Office, there without deliuerie or notice, the new Sherife is chargeable presently with all prisoners; & is also to take notice of all Writs in the hands of his predecessor, &c. and of the Contents thereof, and of all prisoners, and the causes of their commitment, as it seemeth.

The form of the Indentures for setting ouer prisoners and writs between two Sherifes, see in my booke at large.

Note, that by the death of the king (or by his *Resignatio*) the authority of the Sherife (and of all his officers) doth determine and cease: And therefore it is vsed presently in the next Kings time, to sue out new Patents of this Office, and of Assistance.

The old Sherife may execute his office

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Since vntill hee hath his Writ of Discharge ; after he is discharged (*scilicet* after his writ of Discharge delivered to him, or delivered to the Vnder-Sherife sitting in the County Court) neither he nor his Vnder-Sherife ought to make any Warrant for the arresting of any man ; Neither may they make retorne of any Writ : And yet the Writs which are set ouer in the Indenture betweene the Sherifes, if they haue beene executed by the old Sherif the they must be returned by him, or in his name, and indorsed or subscribed by the new Sherife , after this manner :

Istud breue prout indorsatur mihi deliberatum fuit per R.S. Armiger' nunc pro vice prox. predecessori meo, in exitu ab Officio suo.

A. B. Miles vicecom'.

Also if the old Sherife hath serued any Procelle, and before the day of the Retorne thereof he be discharged, (and that it happen to be left out of the Indenture) and feareth that the Writ should be embeseled by his successor, he

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he may deliuer the Writ so by him serued, into the Court; and thereupon the said Writ shall bee deliuered in Court to the new Sherife, and a speciall entrie thereof shall be made in discharge of the old Sherife.

Also the old Sherife after hee is out of his Office, may notwithstanding by the appointment of the Court, amend any Retorne by him erroneously made.

The old Sherife after hee is discharged, may also sell any goods formerly extended by him whilest hee was in Office.

Plus hic cap. 22.

5 The new sherife at his first County Court holden (after his election, and the discharge of the old Sherife) must cause to bee read his Patent of his Office, and his writ of Assistance; and must also nominate his Vndersherife, and must depute or appoint and proclaime foure Deputies (at the least) in the Countie, to make Repleuins in the sherifes name; which Deputies must dwell not past twelue miles asunder, in euerie quarter of the Countie one.

Also

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Also the new Sherif before he returne any writ, must haue a deputie of record in euerie of the Courts of Chancerie, Kings Bench, Common place, and Exchequer, there to receiue all writs and Warrants to be directed to the Sherife, &c. *sub pœna* 40.li. and treble dammages, &c.

And such Deputies must be made by Warrant of Atturney from the High-Sherife, and in writing.

CHAP. 3.

NO Sherife, (Vnder-Sherife, nor Sherifes Clerke) shall abide in his Office aboue one yere, *sub pœna* 200 pounds,

No Sherife or Vnder-Sherife shall be in the same Office againe (within the same Countie) within three yeres after, &c. *sub pœna* 200 li.

But yet persons inheritable to the office of Sherife or Vnder-Sherife; & the Sherifes and Vnder-Sherifes of London and of Bristoll are excepted,

Also

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Also the King by his Prerogative may grant the Office of a Sherife for yeares, life, or in fee.

Euerie Sherife must dwell and bee resident in person within the Countie where he is Sherife, during the time of his Office, except he be otherwise licensed by the King.

A Sherife hath no authoritie or power within another Countie: Neither may they exercise their Office out of their Countie.

And yet the sherife being out of his Countie, may make a pannell, or may make any Retorne.

Also by force of the Kings Writ (to carrie a prisoner out of the Countie, &c.) the Sherife may carrie or send by balston, his prisoner to the place appointed him, although it bee through diuers other Counties.

Also if a prisoner of his own wrong shall make an escape, and flie into another Countie, the Sherife (or his Officers) vpon fresh suit may there take him againe.

No Sherife shall let to farme his Office

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fice in any manner; nor his County, nor any of his Bailiwicks, or Hundreds, nor any of his Courts, *sub pœna* fortie pounds.

And yet the Sherife may appoint vnder him his Vnder-sherife, and his Baylives and Deputies, all which doe vse their place in the right of the Sherife, and as his seruants; but they may not be Lessees or Fermors thereof, and so to occupie their place, or take the profits thereof in their owne right.

For the Sherife may not let the profits, issues, or revenues of his Countie, or the profits pertaining to his Office: Now these seeme to be the fees, annuities, rents, fermes, issues, fines, amerciaments, escheats, estrayes, goods of Felons and fugitiues, and other like casuall profits belonging to the Sherifes office to gather; and where the King maketh one Sherife *sine compoto*, there the Sherife shall haue these things or profits to his owne vse, otherwise the Sherife shall be accountable for them; and yet he is not accountable for them, sauing in a grosse summe for the fermie of the pro-

profits of the Countie. *Tamen quere,*
See hic ca. 11. § 125.

CHAP. 4.

*The authoritie and power of
the Sherife.*

THE authoritie of the Sherife is in
some cases absolute or iudiciall;
and in some cases ministeriall.

Their absolute or Iudiciall power
is in these things following.

By the antient Common Law the
Sherife and Coroners were Iudges, and
in the Tournie Sherifes, & in the Countie
Court the Sherife and Coroners to-
gether did hold plea of felonies, and of
other things pertaining to the Crown.
And in the time of the Saxons, most
suits in the Common Law were Vis-
countiel, and held before the Sherife in
the County court; yea, vntil the Norma
Conquest, a iurisdiction of causes Ec-
clesiasticke was also exercised ioyntly
by the Bishop and Sherife, at the county
B Court.

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Court. But now by the Statute of *Magna Charta cap. 17.* no Sherife shall hold plea of any thing pertaining to the Kings Crowne, *scz.* They shall not hold plea of any Freehold or Lands, nor of any felonie, or trespasse *vi & armis*, or of any other thing touching the Crowne, or against the peace of the King, his Crowne, or dignity, to heare and determine the same.

And yet Appeales of Felonies, and of Mayhem and Rape, may be sued by Bill, in the Countie Court at this day.

Hic cap. 111.

Also the Sherifes in their Court Leet or Tournie may enquire of Treasons, homicides, & other felonies, & of common Trespalles; and in some cases may imprison, fine, binde over, or otherwise punish offenders, *Hic cap. 109.*

In the Countie Court they may hold plea of lands by a *Iusticies*, but otherwise they cannot.

In their Countie Court they may also by playnt hold plea *de aueris capitis & detentis*, &c. which plea properly belongeth to the Crowne.

In

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In their Countie Court they may take a Recognisance for a debt between partie and partie. *Hic cap. 115.*

Hee which hath a pardon for any manner of felonie, ought to be bound to the good behauiour before the Sherife and Coroners, &c.

Also by the common Law the Sherife is a principall conseruator of the peace, and therefore vpon request to him made, he may cause another to finde suerties for the peace, and may take the same suertie by Recognisance and that *ex Officio.*

Yea the Sherife may apprehend, arrest and commit to prison all Affrayors, and such others as shall in any sort breake or attempt to breake the peace, in his presence and within his Countie; and may cause them to finde suerties for the peace.

But yet a Sherife ought not to execute the office of a Iustice of peace in the same Countie, (by force of any commission of the peace) during the time that he is Sherife.

Also euery Sherife by vertue of his office

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Office may take *Posse Comitatus* in these cases following: *scz.*

When any of the Kings enemies shall inuade the land.

When any rebellion, insurrection, or ryot, &c. shall be.

To pursue, apprehend, and imprison Traitors, Murderers, Robbers, and other Felons, and that as well within Franchises or Liberties, as without.

To execute the Procelle and Warrants of the King, and of his Iustices. *Plus hic cap. 95.*

Also vpon notice of any ryot, vnlawfull assemblie, Affray, or other offence against the Peace, the Sherife ought to raise the power of the Countie (if need be) to apprehend and imprison such malefactors.

They may arrest and commit to the Gaole all persons by them suspected, which be vagrant, or which shal walke by night or day and be of euill name or fame: And it seemeth they may bind ouer such persons with Sureties by Recognisance, to the next Sessions or Gaole deliuerie.

They

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They may arrest and commit to the Gaole all such as goe or ride armed offensively, *scz.* in affray of the Kings People; and may take away their Armour to the Kings vse, and preise the same by the oathes of some present.

If any Subiects, Purueyour, or Cator shall take any mans goods, or any carriage, against the owners will, the Sherife vpon request and notice thereof, is to arrest and imprison the offenders, &c. *sub pena* 20.li.

The Sherife or Vnder-sherife, (*sub pena* 100.li.) must ioyne with the Iustices of peace,

1 To arrest and imprison Ryoters, &c.

2 To record the Ryot in writing.

3 To enquire thereof by a Iurie, if they were gone before the comming of the Iustices and Sherife.

4 And to certifie the King and his Councell thereof; if the truth cannot be found vpon such enquirie.

5 If the truth thereof cannot bee found by reason of any maintenance, they must also certifie the names of

B 3 such

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such maintainers, and their misdemeanors, *sub pana 20.li.*

If any persons shall make resistance or disturbance, to the Sherife (or his Officers) in the execution of the Kings Proces, it seemeth the Sherife may presently imprison such Resisters.

Sherifes may baile prisoners in diuers cases *Hic cap.96.*

Sherifes also haue the keeping, and the Cognisance, and the correction of the Assises of bread and ale, and of false weights, and measures, and may enquire thereof in their Tourne, and may adiudge them to bodily punishment.

See plus hic postea tit. Torne ca. 109.

Also in the execution of some Writs, (as in a Writ of Redisseisin, in a Writ to enquire of Wast, and in a Writ of admesurement, &c.) the Sherife is both a Iudge and an Officer, and so hath a twofold authoritie: *scz.*

As a Iudge, to hold plea of the matter, to examine it, to giue iudgement, and

and in some cases, to commit to prison, yea, and to make out Procelle against the offenders.

As an Officer, to execute the Procelle, and to retorne the same.

But this iudiciall or absolute power the Sherife cannot grant it ouer, neither may he execute it by his Vnder-sherife or other Deputie, (as it seemeth) but must sit and execute it in person, although it be within a Franchise

C H A P. 5.

The ministeriall Office consisteth principally in these things following :

1. **T** Ruly to keepe the Kings rights of his Crowne, (within his Countie) *scz.* the Kings Lands, Franchises, suits &c. *Cap.* 6, 7, 8.

2. To gather the profits and monies due to the King within the Countie, *Cap.* 9 &c.

3 To seise to the Kings vse the
B 4 goods

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goods of Felons, Fugitiues, & persons outlawed, treasure troue, waisted goods, wrecks, &c. *Cap. 14 &c.*

4 To execute & returne all writs & commandements directed to him from any of the Kings Courts, *Cap. 20, &c.*

Note, that whatsoeuer the Sherife shall doe (in these former businesses) *Virtute Breuis*, *scz.* by vertue of the Kings Writ, or other Warrant from the Kings Courts, is warrantable.

But what he shal do *virtute*, or *colore officij*, is not always excusable, or so safe

5 To impanell Iuries, and returne them, *Cap. 85, &c.*

6 To be attendant vpon the Iudges in their Circuits, &c. *Cap. 98.*

7 To assist the Iustices of peace, and to execute their Precepts, *Cap. 99.*

8 To execute the Precepts of other Commissioners, *Cap. 100.*

9 To execute the Precepts of Esche-tors and Coroners, *cap. 100.*

10 To assist the Ordinaire in suppressing heresies, *Ibidem.*

11 Duly to keepe his Courts, *scz.* His Tourne, *Cap. 106.*

tices,

His Countie Court, *Cap. 110.*

12 To proclaime certaine Statutes, &c. *Cap. 102.*

CHAP. 6.

First, The Sherife by his Oath is truly to keepe the Kings Rights, *scz.* that they be not decreased, cancelled, or withdrawne, be it in his lands, franchises, suits, or other things.

Concerning the Kings Lands.

In ancient times Sherifes in their Tournes did enquire of alienations in Mortmaine, and of alienations (by the Kings Tenants) without Licence; and in such cases the sherife might haue seised the lands (so aliened) to the Kings use, as lands forfeited or escheated.

At this day, where any man shall encroach vpon the Kings lands, or vpon the Kings Highway, or shall leuie or make any house or building, wall, or hedge, &c. vpon the Kings land or highway, Or shall make any inclosure thereof, these are purprestures, and to be enquired of and reformed by the sherife

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rife in his Torne; and they may be seised by the Sherife into the Kings hands, or may bee pulled downe, &c. *Hio. Cap. 107.* Where without any offence found, or other matter of Record, there is a possession in Law vested in the King, of any lands, &c. *scz.* where the Freehold is cast vpon him in law, there it seemeth the Sherife, or Escheator, *ex Officio*, may seise and take the Issues and profits of the same lands, to the Kings vse, making account for the same; As where any lands, &c. shall come to the King by descent, Remainder, or Reuerter.

Also the Kings Officer may seise these things following as Royalties belonging to the King by his Prerogative, or otherwise coming to the King or Crowne by escheat or forfeiture, and to answer the issues and profits thereof, &c. As

First, the lands and profits of the lands of aliens, within their Countie.

The lands and profits of such lands as come to the King by Attainder, Escheat, and alienation in Mortmaine.

The

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The meane profits of lands for intrusions and alienations without License.

But in most cases for Lands or Tenements, or the profits thereof, there must first be an office found for the King, (*viz.* an enquire must be made by twelue men vpon their oath, to finde the Kings title, and the certaintie what Lands or Tenements they be, and the yearely value thereof) before the Officer may seise them.

And yet in these cases following, the Sherife or the Escheator may *ex officio*, (as it seemeth) and without any Office found, seise the same. *scz.*

In cases where any are attainted (during their liues) of high Treason: (and here they shal forfeit all their lands and hereditaments in fee simple, or fee taile.

So where the Kings Tenant in fee simple is attainted of pettie Treason, or of Felonie, and is put to death, or dieth of himselfe, the Kings Officer may seise the same; for here a possession in Law vesteth in the King.

And in these cases the King shall haue

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haue the forfeiture of their lands from the time of the offence.

Also where a possession in Law of lands, &c. is cast vpon the King by discent, Reuerter, Remainder, or Escheat, *ut supra.*

So in cases of Wardship and *Primer seisin*; or during the vacancie of a Bishopricke: In which three last cases the possession in law of a Chattell is vested in the King.

But in other cases the Officer may not seise any lands or Tenements, nor the profits thereof, without an office found for the King; or other matter of Record and Procelle, *scz. a Scire facias* made out against the parties, and returned, &c.

As where the King is entituled to enter for a Condition broken, or for Mortmaine, or for alienation without licence.

So in case where the King is intituled to seise the temporalties of a Bishop for a contempt.

So in Cases of Ideocie, Lunicie, and the like.

So where the King is to have *Annum diem, & vastum*, of the lands of persons attainted.

Also where an Office is found which doth not intitle the king to the possession by Entry, but onely dy action, there the Officer must first haue proceſſe or other warrant for to seiſe the land, &c.

As where it is found by an Office, That the Kings Tenant for life or yeares, hath done waſt.

Or that his Tenant in fee ſimple hath ceſſed by two yeares.

Or that his tenant in fee, hath made a feoffment by colluſion, contrary to the ſtatute of *Marlebridge*.

Note whete the Office is found before the Eſcheator, there the Eſcheator is chargeable vpon his accompt.

But of lands whereof the Office is found before Commissioners, there the Sherife ſhall be charged.

And yet neither of them ſhall bee charged, but where there is an Office found, (or that they ſhall meddle *ex officio, &c.*) And where there is an Office

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fiſe found, they ſhall be charged onely according to the yearely value found by the Office.

And therefore in all theſe former caſes, where the Sherife ſhall ſeiſe any lands or tenements, or the profits thereof, it is ſafeſt for the ſherife that there be an Office firſt found thereof; or at leaſt for him to haue the kings writ, other warrant of law ſo to doe.

But the Eſcheator is more ſpecially appointed for the finding out of the Kings title to Lands, Tenements, and or other things.

CHAP. 7.

Franchiſes.

A Franchiſe is a Royall priuiledge in the hands of a ſubieſt: And ſuch are euery Libertie or commodity which of their owne natures are appertaining to the King, and are deriued from the Crowne, and by the ſpeciall gift or grant of the king, are come to a
common

common person, or subiect.

Of these some are more Royall ; as authority to pardon Treason, Felony, Vtlary, &c. Or to make Iustices & the like ; which none can doe but the King. 27. *H.8. cap. 24.*

Some are lesse Royall ; as Conu-
sance of Pleas, Chafes, Parks, Warrens,
Fayres, Markets, Toll, Courts, Leets,
or Hundreds, Wayfes, Estrayes,
Wreckes, *Catalla felonum, fugitio-*
rum, & vtlagatorum, the correction
of the Assises of bread and Ale, Pillo-
ry, tumbrell, and the like ; these a sub-
iect may haue.

Now if any man doe hold, or vse a-
ny of these last sort of Franchises,
without, or contrary to the kings grant
or lawfull Prescription, it seemes to be
enquirable in the sherifes Tourne, as a
Purprestor.

Againe as it is parcell of the She-
rifes oath to keepe the Kings Franchi-
ses, so the Sherife may leise to the
Kings vse, *ex Officio*, many of these
things ; as namely wayfes, estrayes,
wreckes, and felons, and vtlaws goods,
&c.

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&c. except where some other person hath the same by Charter, or by Prescription.

Note in the former cases (*Capite precedente*) the king is to haue seisin, or possession of the lands themselves, So as the King may let them, &c. But where the king is not to haue seisin of the land it selfe, but is onely intituled to the profits of the lands, there the Sherife *ex Officio*, and without any office found, may seise to the Kings vse, the profits of such lands: As the lands of a Clarke conuict of felonie.

Also the profits of the lands of persons outlawed in a personall action, the Sherife (or Escheator) may seise *ex officio*. See *hic* Cap. 15. what the Officer may seise, doe or take, in the name of the profits of lands.

Goods.

Also goods and chattels of felons, fugitiues, and the like, the Sherife may seise *ex officio*.

And yet *dicitur* that the Escheator is rather, and more vsually accomptable, for these: And that the Sherife is not accomptable, or chargeable for these,

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these, save in a grosse summe, for the forme of the profits of the County. See *plus hic cap. 14 & 125*.

And note that no subiect can have these things, *scz. bona seu catalla felonum, fugitivorum, & vltagatorum*, but by Charter, and not by Prescription.

Also Franchises or Liberties seised into the kings hands vpon iudgement giuen in a *Quo warranto*, the Sherife shall answer the profits thereof to the kings vse.

But the Sherife must first haue a writ or precept directed to him for the seising of diuers Franchises, before he may seise them; for that there bee diuers Franchises which may not be seised, but at the Kings suit in a *Quo warranto* (which writ is to try the validitie of the Franchise, &c.) as Conuizance of Pleees, correction of the Assises of bread, Leets, Hundreds, Fayres, Markets, and the like.

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CHAP. 8.

Suits.

IT is parcell of the Sherifes Oath truly to keepe the kings suits.

Now Suite is a seruice which a man ought to do, by reason of his land and tenure; & to performe this he ought to go to the Court of the king (or of some other) there to doe that which appertaineth to the nature of his suite.

And both the Sherifes Courts, *ſc.* his Torne and Countie Court, ſeeme alſo to be (both of them) the Kings Courts, by reaſon that the ſuite belonging to them both is a Suite Royall, and due by reaſon of Reſiency within the County : And therefore as the ſherife by his oath ſtandeth bound to keepe the kings ſuits, So incluſiue, hee ſtandeth bound duely to keepe his ſaid two Courts, and to ſee that all Suitors belonging to the ſame Courts, giue their attendance, and doe their ſuit and ſeruice there.

Befides

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Besides, the Sherifes Torne is principally to cause every man to appeare there in person, to do their Allegiance to the King, and there to bee sworn the Kings Liege men; And the Sherife there also is to enquire of things pertaining to the King and Commonwealth, and to preserve diuers of the Kings rights, and to reforme and redresse diuers common Nufances, and trespasses vpon the presentment of the suitors.

Also by the word Suits may be vnderstood the kings Suits in law, *scz.* That the Kings Suits in Law shall bee preferred, and that the Sherife for the kings profit therein, is to doe his best endeavour according to his office, *scz.* That the king bee first payd, and his debt first leuyed, *vide hic cap. 10. 19. 25. & 58.*

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CHAP. 9.

Rents.

THe sherife by his Oath is also bound not to assent to decrease, to lessing, ne concealment of the Kings rents.

Now the sherife is *Ballivus Comitatus*, and as a Baylife of a Mannor is to gather vp his Lords rents, so the sherifes Office is to gather vp within his Bayliwicke the Kings rents and monyes : though at this day for the kings rents this rather belongeth to the kings Rece uers, *scz.* to gather vp the Ordinary Rents of the Kings lands.

And yet if the Sherife shall distraine the Kings farmor or tenant for Rent due to the King, and shall accompt for the same in the Eschequor, it is a good iustification for the Sherife, in an action brought against him for taking the Tentants cattell.

Also the Sherife is accomptable to
the

The King, of all Farmes, Rents, Issues, and profits of the County, which run in accompt vnder the name of Viscountiels; for these the Sherif so soon as he is made Sherife is accomptable yet in a summe in grolle.

But for the extreats of the greene waxe, & for Fynes and Amerciaments, Issues, the Kings debts, and such, the Sherife is not chargeable, nor to leuie vntill they be estreated vnto him, or the same without procelle or other warrant; and then when he hath leuied them, he is chargeable.

Also for the kings Ordinary Rents, the Sherife (vpon procelle to him directed for the leuying thereof) may leuy the same, and that either vpon the body or goods of the Kings tenant, or of his sureties; or vpon the lands of his Tenants, or vpon his heires, or executors, or other possessors of his lands or goods.

Note that there bee certaine fermes called Viscountiels, for which the Sherife for his time payeth a certaine Rent to the king, and maketh what profit he

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can of them ; and for these the Sherife is accomptable, *vt supra*, *scz.* in a sum in grolse, and presently.

And these Viscountiels are said to be certaine duries of ancient time due to the king, &c. *scz.* for Castle gard, for the Sherifes ayde, for the Leet fee, &c. And these are commonly called Certainties, which are gathered vp by the Sherife or their baylifes.

CHAP. IO.

The Kings Debts.

THe Sherife also vpon Procelle (as vpon the greene waxe *scz.* vpon the Estreat to him deliuered out of the Eschequor vnder the Seale of that Court) is to leuy the kings debts.

And this the Sherife may doe either vpon the body or goods of the Debtor, or his sureties ; or vpon their lands in their owne hands, or in the hands of the heires, feoffees, or any other person clayming or hauing the same

same from them by discent, or by purchase.

Also the Executors, Administrators, Assignes, and other possessors of the goods of the Kings Debtor, are chargeable to the kings debt.

And vpon Procelle. &c. the Sherife may seise, (inroll, praise,) and sell the goods of the kings debtor being dead, that praising of the goods must be *per visum vicinorum*, &c. and according to the value of the debt.

But goods, or a lease for yeares, sold away by the Debtor *bona fide*, are not liable thereto.

Also vpon procelle, the Sherife may distreine for the kings debt, in all places within his County; and may impound the distrelles in a common pound; and after 15. dayes may sell the same away, if the debt be not satisfied in the meane time.

But if any bring the Tally of payment of this debt in the Eschequor, the distrelle shall cease.

Also if the debtor brings the Tally of any Sherife or Baylife, of payment

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made to them of the thing demanded, and will find Sureties to appeare in the Eschequor vpon the next accompt, &c. the distresse shall cease.

Also if the Kings Debtor shall finde sufficient Sureties to the Sherife to pay the Kings Debt, before the day of the Retorne of the writ, the Sherife must deliuer the distresse.

These distresses made by the Sherife, must be reasonable, after the value of the debt; and must not be of Plow Cattle, nor of Sheepe, if the Officer can finde other sufficient distresse; nor shall be driuen too farre.

The reasonablenesse of the Distresse must be by estimation of neighbours; *sc.* That the goods be praised by neighbours.

Note that in these former cases where the Sherife, &c. cometh to leuie or distreine for the Kings debt, hee must first shew to the Debtor (demanding the same) the procelle or Estreats vnder the seale of the Eschequor, for the leuying thereof.

Also the Sherife shall make Tallies
or

or acquittances to all such as shall pay him the debt : And the Sherife must quite the Debtors thereof , at his next accompt in the Eschequor, *hic cap.* 13.

If the Debt once payd bee another time demanded of the party, hee shall recouer treble damages against the Sherife, &c.

But the Sherife for the Kings debts, &c. doe by any Ecclesiasticall person, may not distreine in the Church, nor in the ancient fees or passions of the Church, nor in the Kings high way, if hee can finde goods sufficient elsewhere.

Neither may the Sherife distreine or take for the kings debt, &c. due by any Ecclesiastical person, any goods which doe belong to the Church, or to the Parish.

The Sherife may not distreine vpon the wifes Dower , or inheritance, for her husbands Debt due to the king after the Couerture. So hee may not distreine vpon a ioynt Estate purchased by, or assured to the husband and wife, for this debt due after.

What

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What other goods the Sherife may not distreine or meddle with for the Kings Debt. See *hic cap. 15.*

But the kings Debtors, their bodies, Lands, and Goods, and their Heires and Assignes, and their Executors and Administrators, and all other possessors of the goods (after their death) are chargeable.

Also the Rents of their Farmours or Tenants, yea the Tenants themselves, their goods, are liable to pay the Kings debts, &c.

Note that the Kings Suits shall bee preferred, and his debts shall bee first paid.

But for the kings Debts, the Sherife is not chargeable or accomptable, neither may he distreine for, or otherwise leuy the same, without Proces, or other warrant.

CHAP.

CHAP. II.

Issues.

THe word *Issues* (in our Law) seemeth to be taken three wayes, or in three manners to this our purpose.

1. First, For the Issues and profits of lands or tenements; as where the King is entituled to haue the Lands or profits of lands of persons attainted or outlawed, or for alienation without Licence, or in mortmaine, for a condition broken, or the like; whereof *postea*.

2 Secondly, For such Issues & profits of the Countie which goe vnder the name of Viscountiels, whereof *hic Cap. 3. & hic postea*.

3 Thirdly, For Issues to be lost for default of apparance, (*scz.* by Iurors, or by the Tenant or Defendant, &c.) of which here.

For this last sort, these Issues are sometimes set by the Court, as an Amerciament, fine, forfeiture, paine, or punish-

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nishment, for default of appearance of Jurors, Mainpernors, or Pledges, and sometimes of Witnelles: And these Issues or profits thus growing due to the King, are to be leuied by the Sherife, &c.

Sometimes these Issues are set and returned by the Sherife, to the end to cause an appearance of Jurors, & of the Tenant and Defendant, and these also are to be leuied by the Sherife to the Kings vse.

Sometimes the lands themselves shall be seised by the Sherife into the Kings hands, for default of appearance of the Tenant in a reall Action; as in a grand *Cape*, or a petite *Cape*: And in these and the like cases, where by Writ the land is seised into the Kings hands, the King shall haue the lands to his owne vse, and the Sherife shall bee charged with the Issues and profits of the said Lands: from the time that the Lands were so seised by him, &c. *Vide hic Cap. 61.*

What is contained vnder the name of Issues, See *Cap. 89.*

How

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How much the Sherife must return in issues vpon the Defendant or Tenant, see *Ibidem*.

What Issues he must returne vpon Iurors, *Cap. 90.*

Vpon whom, and what lands such Issues shall be leuied, *Ibidem*.

If the Sherife shall returne a Iuror in issues, who is not sufficient, the Sherife is punishable, *Ibidem*.

So if the Sherife shall returne any issues vpon any Iuror or hundredor, which was not lawfully summoned, *Ibidem*.

Issues.

If the Sherife shall returne the Issues of any Recognisance, Pledge, or Mainpennor, which at the time of the Return was not sufficient to answer the said Issues and amerciaments, the Sherife shall bee charged there in the Exchequer.

For all manner of Issues and profits of the Countie, which runne vnder the name of Viscountiels, the Sherife so soone as hee is made Sherife, is accountable

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countable for the same, yet in a summe in grosse.

But for other Issues lost for default of appearance, the Sherif is not accountable, nor shall bee charged therewith vntill they shall be estreated vnder the Seale of the Exchequer, and that the same estreats shall be deliuered to him: Neither may the Sherife leuie the same without such Warrant.

If such Issues lost for default of appearance, shall be returned by the Sherif vpon any man, the partie hath no remedie, be the Issues neuer so great.

Now for the first sort, (*scz.* for the profits of lands) after the death of the Kings Tenant in *Capite*, and an Office found, the King shall haue *Primer Seisin*, *scz.* the Issues and profits of all their lands from the time of the death of his Tenant. *Hic Cap. 6.*

Also the King shall haue the Issues and profits of the lands of such his Tenant, aliening without licence, *scz.* from the time of the Office found, the Kings Tenant who getteth Liuerie out of the Kings hands wrongfully, shall

shall answer the Issues behind, &c.

Where the King enters for a Condition broken, or for a Mortmain, &c. the King shall be answered of the measure, Issues, and profits of those lands, *scz.* from the time of the kings title first accrued.

And of the Issues of the lands of felons, Fugitiues, and Outlawes, &c. *scz.* from the time of the Attainder, &c. *Hic Cap. 14.*

And so in all these cases the King shall bee answered of all the Issues of the lands, after an office thereof found; but before an Office found, the Sherife or Escheator is not to meddle. *Hic Cap. 6.*

An Abator shall bee charged (and not the heire) for his time.

If such lands (whereof the King is to haue the meane issues or profits) shal be in diuers mens hands after the kings title accrued, euerie of them shal answer for his time.

Issues lost for default of appearance either by the tenāt, or in any other case of a Distresse infinite, as in case of Jurors

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rois after a *venire fac*, the Sherife vpon the Estreats out of the Eschequor, &c. may leuie the same vpon the lands in the hands of the delinquent of his wife. of his heire in Tayle, of his Successor of his Lessee or farmour of him in reuersion of the purchaser, yea in the hands of a stranger, whose beasts are their leuariat and couchant.

And vpon these Estreats the Sherife is to leuy and gather vp accordingly these Issues, and to bring them into the Eschequor, and there to account for them.

If any Officer, &c. shall collect or leuie any Issues Estreated (to him) of any other than of the right person charged by the Estreate with the payment of the said issues, they shall be punished. *Plus hic Cap. 89. & 90.*

CHAP.

CHAP. 12, 13.

Amerciaments and Fines.

AN Amerciament is properly a penalty assessed vpon an Offendor by his equals (*pro pares*) *scz.* by the Country vpon Oath: or assessed by the Court vpon some Officer of the Court.

A Fyne hath diuers significations; but to this purpose a Fyne is most commonly taken for a summe of money, which is set or assessed vpon an Offendor in some Court of Record, by the Court or Iudge there for some contempt or offence, and which the offendor doth giue for, and in satisfaction of his offence, default, or contempt.

Againe, that which is assessed by the Court vpon an Officer of the Court for misdemeanor, is called an Amerciament Royall; But being assessed vpon an Estranger for mildemeanour, it is called a Fyne.

All Amerciaments and Fynes (for

D

milde-

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misdeemeanors, contempts, defaults, or other Offence) set or assessed vpon any Offendor in any of the Kings Courts, the Sherife vpon Procelle or Estreats out of the Eschequer, &c. is to gather vp the same, and to account for the same in the Eschequer.

Those Estreats must rehearse and shew the cause of the Amerciaments, &c. See *hic cap. 90.*

What persons, and for what causes men shall be amerced, see my booke at large, & *hic cap. 115.*

Such lands, and such persons as are chargeable or lyable to the paiment of Issues, shall also bee chargeable to all Amerciaments and Fynes assessed in any of the Kings Courts; whereof see *hic antea cap. 11.*

But Sherifes shall not bee charged with, nor accomptable for any amerciaments, issues, or fynes, other than those for which they shall haue warrant to leuy vnder the Seale of the Eschequer.

Neither are they to gather or leuy any amerciaments, issues, or Fines, vntill they

they haue receiued such warrant or Estreat vnder the seale of the Eschequer.

The king shall haue all Amerciaments, Fynes, Issues, and forfeitures lost or forfeited, before any of his Iudges or Iustices in any of their Courts or Sessions; Or forfeited in the Courts of Eschequer, of Wards, or of the Dutchy; or before the Steward of the kings House, the Commissioners of Sewers, and the Clarke of the market, &c. but these must bee first Estreated into the Exchequer, and from thence proccesse goeth out to the Sherife to leuy the same as afore said.

And those Estreats shall mention how much euery one is to pay; and by those Estreats, the Sherife is to receiue the kings debts, and these issues, fynes and amerciaments, and to make acquittances or tayles thereof to the parties, and thereof to acquit the Debtors at his next accompt, *Hic cap. 10, & 90.*

And yet note that the Estreats of the Iustices of Peace be an immediate warrant for the Sherife, to leuy not on-

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ly the Fynes and Amerciaments, but also all other issues and forfeitures whatsoeuer arising before them. *Hic*

125.

The King shall haue all Amerciaments, fines, issues and forfeitures, forfeited in any of the Sherifes Courts within Wales; and the Sherifes of Wales shall accompt for the same: but not so of other Sherifes in England.

By the Statutes of 1. & 3. E. 6. cap. 34. it appeareth that Sherifes shall bee accomptable for all Fynes for Alienations and Intrusions, made by the Kings Tenants, &c. within their Countie, as well as for Fines imposed vpon Offenders: And for such Alienation or Intrusion (after an Office thereof found) and proceſſe out of the Eschequer receiued, the Sherife or Escheator may seise the lands for the fine,

CHAP.

CHAP. 14.

Forfeitures,

WHere the Sherife may seize the Lands, or profits of the Lands, of persons attainted for Treason or felony, &c. See *hic cap. 6.*

For misprision (or concealing) of Treason, the offender being attainted, shall forfeit to the King, the profits of his lands, &c. during his life.

In case of *Præmunire*, the Offendor shall forfeit his fee simple lands for ever and the profits of his intayled lands during his life.

Felons condemned, or which be fugitives, the king shall have the meane profits of their freehold lands, from the time of the felony committed, vntill an Office, &c. found for the king; and the year and day next after the Office found.

And yet by some opinions the king shall have the profits of their lands,

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but for the yeare and day after their attainder,

For pettie Treason, or felony, the King shall haue the profits of their lands intailed, during the Offenders life,

So if Tenant in Dower, tenant by the Curtesie, or Tenant for life, commits felony, &c. the king shall haue the Elcheat but during his life.

Where the person attainted is seised in right of his wife, the king shall haue the profits of such lands, during the husband and wifes life. Of Lease for life or yeares, he forfeits the Terme.

And in these cases the Officer may seise the profits of such lands, to the vse of the king. See *hic cap. 6.*

But in cases of Heresie, Coniuration, Witchcraft, Sodomie, and the like, there shall be no forfeiture of lands for that the offences be spirituall.

Goods.

All goods and chattells, reall, and personall, moouable and vnmoouable, of persons attainted for treason, felony, misprision, or *Premunire*, or for heresie, coniuration, or witchcraft, &c. shall

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shall be forfeit to the king. *ſc.* all such goods as they shall haue at the time of their attainder.

And these the Sherife or other Officer may seise *ex officio*.

And in these and all other forfeitures, the Towne is chargeable with the goods; and therefore they also may seise them wheresoeuer they be.

It seemeth by Master *Glanuile*, That in his time, for theft the Sherife himselfe had the felons goods, which were forfeited to his owne vse. But now the Statute *de Prærog. Regis*, cap. 16. giueth all felons goods to the king, the words whereof are *Rex habebit omnia catalla felonum, dampnatorum, & fugitiuorum, &c.*

And vnder this word *Catalla*, bee comprehended Leases for yeares, the issues of lands and tenements, corne growing, debts due by obligation, Statutes or Recognizances, or vpon an accompt, goods wrongfully taken from the felon, and stollen goods, and Debts due vpon a simple contract, &c.

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An obligation made to two, or two posselt of a horse, oxe, or other entier chattell, and the one of them is attained, the king shall haue the whole debt due vpon the obligation, as also the horse or oxe, &c.

But note that alwayes when any forfeiture is of any felons goods, it ought to appeare of Record.

Neither may the Sherife (or other Officer) seise the goods of any person imprisoned (or indicted) for felony, before he be attained of the same: but yer the Officer may cause surerie (presently vpon the taking of the felon) to be giuen that the goods be not imbeazeled. &c. and for want of Suretie, the Officer may seise them, and may preise them, and deliuer them to some of the neighbours of the towne where the goods are, by them safely to be kept vntill the Offendor bee conuicted, or acquitted; yeelding to the felon reasonable maintenance thereout for himselfe and his family; so long as he shall bee in prison.

Also where one is found guilty before

fore the Coroner, of the death of another, or where it is found before the Coroner that one did flye for felony, in these cases the Officer may presently seise vpon their goods, without any conuiction.

And if a man shall flye for felony, though his goods be not thereby presently forfeited, yet the Sherife may seise his goods, and the profits of his lands to the kings vse, vntill the fugitiue shall be attainted, or acquitted.

Vpon a *fugam fecit* presented before the Coroner, the goods ought presently to be seised by the Sherife or his Officers, and praised by an Enquest, and the Sherife shall cause the appraisement to be entred and inrolled in the Coroners Roll, and shall then deliuer the goods to the Towne, &c. who shall be answerable to the king for the same,

But for the issues and profits of the lands of felons, and fugitiues, the Sherife is chargeable therewith (and not the Towne) and the Sherife shall seise them into the kings hands without taking

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king any Enquest.

A man arraignedd for felony, stands mute, or challenges about 35, without cause, he shall forfeit his goods.

A Clerke conuict, and a Clarke attaint, shall forfeit their goods.

A man abiures before the Coroner for felony, hee shall forfeite his lands and goods: otherwise where a man doth abiure for heresie, trespasse, or other offence,

A man arrested for felony, maketh resistance, and so is killed, he shall forfeit his goods; and yet no attainder. So *felo de se*, shall forfeit his goods.

But an infant, *Non compos mentis*, or a Lunatike killeth himselfe, they shall forfeit nothing.

If a Parson, (or other Ecclesiasticall man) shall commit felony, or shall bee vtlawed, or otherwise shall forfeit his goods, the Sherife, &c. may seise his goods, and his Tythes receiued, whersoever they lie or be.

The petty Iury attainted in a Writ of attaynt, shall forfeit all their goods, and the profits of their lands during their
their

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their liues. Affrayors before any Iustice sitting in place of Iudgement, shall forfeit their goods, and the profits of their lands.

So Affrayors in Westminster Hall, sitting any of the kings Courts.

Persons wearing any priuy Armour in the kings Pallace, or in Westminster Hall, shall forfeit their Armour.

Persons riding or going armed Offensiuely, forfeit their Armour, and the Sherife must seise it, preise it, and shall be answerable for it. See *plus hic*, cap. 11.
12.52.

CHAP. 14.

Other forfeiture of Goods.

Goods stollen and after wayued, *scz.* left or cast away by the felon (when he is pursued) are forfeit to the king. And the Sherife or any other may seise them to the vse of the king; but if the felon had not the goods with or about him when he fled, then they
are

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are not forfeit,

Goods confiscate, *scz.* goods stolen (or found in the felons possession) which are lost by default of clayming them, or by disclayming them, &c. such goods are forfeit to the king, and the Sherife shall be charged therewith.

So of Goods stollen, if the owner shall not persecute and giue euidence against the felon to attaint him.

Estrays, *scz.* where any beast or cattell, or swans commeth within any Lordship, and none knoweth the owner thereof, then it shall bee seised to the vse of the King (or of the Lord, &c.)

But the Sherife or other Officer that shall seise an Estray, ought to proclaime it according to law, *scz.* (Once in the Church, and) in the two next markettownes.

Deodands, scz. any goods causing the death of a man shall be forfeit.

Note that the Iury which doe finde the death of the man, must also find & preise the *Deodand*; & the Sherife may presently seise the same for the king; Or
may

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may leaue or deliuer them to the town; and the Sherife shall be charged to leuy the price thereof of the towne, whether the same were deliuered to them to keepe or no.

Goods of Egyptians, the Sherife within one moneth after the arrivall may seise them to the Kings vse.

And yet every person that shall proue by two credible witnesss before the Sherife, that any of those goods were craftily or feloniously taken from him, shall be presently restored thereto by the Sherife, vpon paine to forfeit the double value.

A man vtlawed for Treason or felony, shall forfeit his lands, &c. And all his goods which he had at the time of the exigent awarded, or at any time after.

And although he shal be afterwards acquitted of the felony, or shall yeeld himselfe vpon the exigent, yet he shall forfeit the profits of his lands, & all his goods, for that such absenting himselfe, is accounted a flying in law.

Also

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Also for vtlary in any personall action, he shall forfeit the profits of his lands, and all his goods reall and personall which he had at the time of the Vtlary pronounced; and the Sherife or Escheator *ex officio* may seise to the kings vse, all the profits of the lands in his possession, and may mowe, fener, and take all the corne, and grasse growing, and may take the feede and herbage of the grounds, and take the rents of his fermors to the kings vse.

But the kings Officers may not meddle with the possession of the freehold lands, *scz.* to plow, sowe, grant or let the same.

Neither may they crop any trees, nor cut any vnderwoods (growing vpon the Freehold) nor any other thing which is not cut or taken yearly.

And yet if Tenant for yeares bee vtlawed, the kings Officer may seise that land & terme, and may plow, sow, and occupy the same land, and take all other profits thereof as the termor might.

Also goods which the party vtlawed,

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ed, hath ioynctly with another; the kings Officer may seise the whole for the king.

Goods bayled (by the party vtlawed) to another to keepe, may bee seised and taken for the king.

The party vtlawed makes his Executor, and dyeth, his goods in the hands of his Executor may be seised for the King.

A Ward shall bee forfeited by vt-larie.

But no goods annexed to the freehold shall be seised for vt-lary.

Deere in a Parke shall not be forfeit by vt-lary in a personall action.

Goods which the party vtlawed hath as Executor, shal not bee forfeite.

Goods demised or letten, nor goods pawned, or lawfully distreined, shall not bee seised for vt-lary, *quousque*, &c.

Also where the Lord of a Mannor or Franchise hath by charter the goods of felons, fugitiues, or outlawes, there the Sherife is not to meddle with, or

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to seise Inch goods, &c.

When the Vtlary with the Exigent is returned by the Sherife into the Court, &c. then is it a good Vtlary to disable the party to sue, &c. And yet before the retorne it is sufficient for the king, and therefore the kings Officers may seise the goods of the party vtlawed presently after the vtlary pronounced, and keepe them.

But the Sherife may not sell the parties goods before the *Capias vtlagatum* cometh to him: And vpon the *Capias vtlagatum*, the Sherife may cyther sell them, or keepe them to the Kings vse.

And yet for that the Sherife (by this writ) is not commanded to sell the goods, therefore if the vtlary be reuerfed by a writ of Error, the defendante shall haue restitution thereof, (although they were sold) except that the Sherife hath accompted for them in the Eschequor before the Vtlary reuerfed. *Vide hic cap. 59.*

The Sherife may not arrest the body of him that is outlawed in any personall

sonall action, without a writ of *Capias utlagatum* : But otherwise where the Vtlarie is for Felony or Treason.

If the King shall pardon a man who commeth in vpon the *Capias utlagatum*, before that the partie be satisfied; yet if it bee after iudgement, the Sherife must take heed that hee doth not suffer him to escape vntill the party be satisfied.

Also vpon Vtlarie returned by the Sherife, a writ sometimes goeth out to the Escheator, to seise the goods and chattells, and the profits of the lands of the partie vtlawed.

E

CHAP.

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CHAP. 16.

Treasure Troue.

TR treasure Troue is where any money, plate, or bullion is found hidden in the ground or earth in any place; the owner thereof being unknowne: And such money or goods the King is to haue; and the Sherife is to seise it to the Kings vse.

Goods wrecked, or wrecke of the Sea ~~see~~ Goods cast or left vpon the land by the Sea; the King is to haue (except where the Lord of any Franchise, or Mannor, &c. hath it by Charter, or by Prescription.)

And where the King is to haue these goods, the Sherife may seise them to the vse of the King, and shall preise them by a Iury, and then he may keepe them himselfe; or deliuer them to the towne where they are found to keepe, and then they shall answer for them.

But the owner hath a yeare and a day

day (after the seisure by the Officer) to claim the; so that if any within the yere and day after the seisure, shall proue that the goods were his, they shall bee presently restored to him, paying reasonable charges.

And therefore if the goods be such as may be kept sweet & good by the space of a yeere, there the goods must be preserved during the yeare; otherwise the Officer which seisseth them is punishable: But if the goods will not keepe so long, there the Officer may sell such goods, and deliuer the money taken for them to the towne to keepe; or else he may keepe it himselfe, and answer for it.

But this claime, and prooffe of the property, by the owner is giuen onely where a man, dogge, or some other quicke thing escapeth out of the Ship aliue.

Note that except the Ship doe perish (and be drowned) the goods cannot be forfeite, nor said to be wrecke.

The goods of an infant, woman covert being Executor, a man in prison;

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or beyond the sea, being wrecked at the sea, and not claimed within the year and day, &c. shall be forfeit.

The King also is to haue Whales, and other Royall fishes, &c,

CHAP. 17.

Wards, Escheats, Ideots.

BY the Statute *de Scaccario* made *An. 51. H. 3.* Sherifes shall seise and keepe all such Wards, & Escheats, (that are not in fees) as belong to the King, which be within their thires, and of the issues thereof they shall bee answerable in the Eschequer, when they accompt for their countries: and they might let to ferme, or otherwise such Wards, and Escheates; and might seise their bodies, &c.

Also by the Statute made *2. & 3. E. 6. Cap. 34.* it seemeth that Sherifes shall be accomptable for all Wards, Marriages, and Releifes, &c,

But at this day all the Kings Wards
are

are to be within the order, suruey, and gouernance of the Court of Wards, together with their lands, rents, & issues thereof. And the Escheator is now the Officer appointed to inquire thereof, and to seise their lands, &c.

C H A P. 18.

BY the aforefaid Statute *de Seacra-* Escheats.
rio, Sherifes shall seise the Escheats that fall, to remaine to the King in fee.

If the Kings Tenants (in fee simple) dieth without an heire, and no other person entreth, the King is in by Escheate, and hath a freehold without any Office, and the Kings Officer may seise it for the King.

In cases of Heretic, Coniuration, and the like, there is no Escheat, *hic cap. 14.*

All Escheats within any City, pertain to the King.

Plus hic cap. 6. 7. & 14. concerning Escheats, and the Sherifes duty therein.

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CHAP. 19.

Idcots.

IF there shall be an Ideot (*scz.* a naturall foole) there may be a Writ awarded to the Sherife, or Escheater, both to examine him, as also to inquire by a Iury of such Ideot, and of his lands,&c.

But there can bee no seisure of the lands without an Office first found; nor of the profits of their lands.

Also the King shall haue the custody of an Ideots body, and goods, as well as of his lands, and that during their liues; providing them things necessary for themselves, their wiues, and family.

But all Ideots and their lands,&c. shall be in the ordering of the Court of Wards.

And yet the King nor his Officers ought not to seise the lands (nor the Issues of their lands) of an Ideot, vntill hee bee found an Ideot by an Office.

Last-

Lastly, the words of the Sherifes Oath are, You shall truely keepe the Kings rights, and all that belongeth to the Crowne: Now these former (and other the Kings Prerogatiues of the like kind) although they are a great part and portion of the rights, profits, and commodities of the Crowne, yet this Prerogatiue doth not onely extend to such benefit and profits as the King is to haue from his Subiects as afore-said: But also to the Kings person, to free it that it shall not be subiect to any mans suite; and also to his possessions, so that they may not, nor can not bee taken from him by any violence, or wrongfull disseisin, and to his goods and chattells, so that they are vnder no tribute, tolle, or custome, nor otherwise distreinable.

And in all these, and other the Kings Prerogatiues, the Sherife is to doe his best endeaour for the keeping and preseruing thereof, so far forth as belongeth to his Office.

Note that the Kings person is so sacred, as that no violent hands may in

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any case bee laid vpon him: neither may he be sued by action (as a common person or subiect may.) But wheresoeuer the King shall seise any mans land, or take away any mans goods, (hauiing no Title) there the Subiect is driven to suite his Soueraign by way of Petition onely.

For the Kings possessions, or lands, that they cannot be extended or taken in execution. See *hic cap. 26.*

So all the Kings lands are exempted from distresses for rent, &c.

For his Goods also, they cannot bee taken for Wayfes, Wreckes, or Estrayes.

The King beeing Nonsuit, &c. cannot be amerced.

That he shall finde no Pledges *de prosequendo hic cap. 45.*

CHAP.

CHAP. 20.

Direction and execution of Writs.

NExt, The Sherife is duely and truly to serue and execute al manner of Writs, Procelse, Iudgements, and commandements, made or directed to him from any of the Kings Courts.

And indeed the office of a sherif consists chiefly in the execution & seruing of Writs and Procelse of Law; and to doe this, he is the immediate Officer of the King and all his Courts, *scz.* To execute the Writs of the Common Law.

And this he must doe (or cause to be done) truly and duely, and in euery behalfe as the Writs themselves commands, without any fauour, dread, or corruption, or else he is punishable.

By the antient Law of this Land, all originall Writs (purchased at the suit of the partie to maintaine actions)
are

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are to be directed to the Sherife of the Countie where the cause of the suit doth arise, and cannot bee directed to any other person than the Sherife; vnlesse it be in speciall cases, where there shall be good cause of execution to or against the Sherife; and there the Writ shall be directed to the Coroner, who then standeth in the place of the Sherife.

And if the Sherife bee dead or remooued, yet the Procelse shall not be directed to the Coroners, but shal stay vntill another Sherife be chosen.

Where there be two Sherifes, (as in London and Yorke, &c.) and Procelse goeth out to the Sherifes, there one of them may not returne the Writ alone, although the other be dead; and yet it is vsed, that one of them doth serue it, (which is the seruing of them both) but the returne must be in the names of both of them.

But in things spirituall the Ordinarie is the immediate Officer to all the Kings Courts, to serue their Procelse, &c.

Execu-

The Office of a Sherife. 38

Execution of Writs.

Sherifes and their Vndersherifes shall receiue all manner of Writs in any place, and at all times, within their Countie, when and wheresoever they shall bee deliuered them; and shall make thereof Warrant to their Bayliffe, &c. or else execute it themselues.

A Writ deliuered to the Sherife, of or vpon Record, is imbealeed *See hic Cap. 37.*

After the Writ executed, the Sherife must returne the same into the Court from whence it came.

If the Sherife (or his Officers) shall not execute the Writ, or shall not returne it, or shall make any false returne thereupon, he is punishable.

And yet in some cases, although the Sherife executeth not the writ, he may excuse it by his Returne. *Hic Cap 38.*

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CHAP. 21.

ALl Writs are vsually deliuered to the Vnderherife, and executed by him.

And yet the High-Sherife may execute them himfelfe, or he may by word onely, command his Vnderherife, Bailife, or other sworne officer, or his own feruant to ferue or execute the fame.

Or he may make or command any stranger (being neither a knowne nor sworne Officer) to execute it ; but then the Sherife must deliuer fuch a stranger, either the Writ it felfe, or elfe a Precept or Warrant in writing.

And yet any stranger, by the commandement of the Sherife, and as his feruant, may iustifie to ferue and execute any Procelse, and that without any Precept in writing.

Also the Vnderherife may either execute the Writ himfelfe, or elfe must make his Warrant (in writing, and in
the

the High-Sherifes name) to the Baylife or other officer to do it; or he may make such Warrant to any stranger.

The Bailife or other Officer to whom any Warrant shall bee directed and deliuered, ought with all speede and secrecie to execute the same.

The Bailife or other such officer must execute the Warrant himselfe, and can command none other to doe it, neither by word nor writing; and yet they may take what number of other persons they shal thinke meet to ayd them in the execution of their Warrant.

And so if the High-Sherife shall direct his warrant to his Vnder-Sherife, here the Vndersherife must execute it himselfe. *Quare.*

None shall be arrested for debt, trespassse, or other cause of action, but only by vertue of some Procelle, Precept, or Commandement out of some Court.

But by the custome of London, vpon a Plaint or Suit for debt, first entered before the Sherifs against another, the Serjeants may arrest the debtor by the commandement of the Sherife, (to appeare

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appeare and answer to the suit, and that without any procelle, warrant, or Precept in writing.

The Sherife, Vnderherife, Baylife, or other Officer, may (if need be) take *Posse comitatus* to execute any writ, or other lawfull warrant directed to them, and such as shal not assist them therein, being required shall make Fyne to the King.

The Sherife (or other Officer) is not to dispute the authority of the Court, or Iustice: from whence or whom they shall receiue any writ or warrant, but at their perils are to execute the same.

And yet some cautions are to be obserued therein:

1 First, where the Court, or Iustices (out of which, or from whom; the writ or warrant cometh) hath no iurisdiction of the cause, the Officer is not bound to execute it, nay may not safely doe it.

2 If the Sherife shall bee commanded (*coment per breue le Roy desonh son priuy seale*) to surcease the Execution of any writ to him directed out of any

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any of the Kings Courts, the Sherife may not safely surcease thereupon: For (by Law) the Sherife by no writ may surcease, &c. but onely by writ or warrant out of the same Court out of which hee had his first commaundement, 4.E.4. fol. 17. & 14. E. 3. Fitz. *Retorn de vic.* 89.

Execution of Writs.

3 One being in Execution, the commandement of the Kings Court (*immo del. nostre Seignior le Roy luy mesme*) without writ, is no sufficient warrant to the Sherife to deliuer the prisoner: But vpon such command without writ, it seemeth the Sherife may carry the prisoner to any place, so as hee bringeth him backe againe.

Quatre.

4 One being in prison vpon an Execution, or vpon a *Capias vilagatum*, if the Sherife shall deliuer him vpon a writ of protection *de seruicio Regis* (or *per breue south Signet le Roy*,) these seeme no sufficient excuse to the Sherife,

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rife, &c. Dyer. 162. *Vide hic cap.*
163.

5 And sometime againe the Kings Writ vnder the great Seale is no sufficient warrant to the Sherife to deliuer a prisoner.

As if the Sherife vpon the Writ *de Homine repleg.* shall deliuer a prisoner that is in for *Redisseisin*, he shall bee amerced.

So if a prisoner condemned in arrages before Auditors, shall bee deliuered vpon the said Writ *de Homine replegiando*, it is an Escape, and the Sherif shall pay the debt.

And yet he which is imprisoned for a contempt onely, may bee discharged by the commandement of the king, or of his Iustices, by word onely.

6 Also Knights and Burgeses of the Parliament, and Clergie men called to the Conuocation, &c. and their necessarie seruants (attending vpon their masters) during the time of the Parliament shall not be arrested vpon any originall proces for debt, trespass, or the like; but must haue their priuiledge

ledge: *Eund, morād; & redeūd* allow'd them. Neither shal any such priuiledged person bee arrested vpon any writ of Execution during the Parliament.

Neither shal any of their goods or catels necessary be attached or taken by the Sherife, or other Officer, except it be in case of Treason or felony.

7. If a Knight or Burgesse of the Parliament, &c. shall be taken vpon au execution, &c. the Sherife ought presently to deliuer them, being sent for by the house, *hic cap. 29.* But yet vpon a *Capias vtlagatum* they may be arrested during the Session of Parliament.

8. Also all such persons whose attendance is necessary in any of the Kings Courts (at Westm. or elsewhere) shall not be arrested, vpon any originall proccesse, but shall be discharged vpō shewing their Writ of Priuiledge. And so note that in some cases, the Sherife is bound at his peril to take knowledge of the Law, and of the authority & iurisdiction of the Kings Courts & Iustices.

But if a *Capias*, a writ of Execution, or Exigent shall come to the Sherife against a Duke, Earle, or other Noble

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man or woman, though it lyeth not against them, yet the Sherife, &c. ought to serue or execute the writ, and must not argue or dispute the validitie thereof.

CHAP. 22.

The Officers dutie.

THe Sherife, Baylife, or other Officer (to whose hands any Writ or Warrant shall come) ought with all speed and secrecy to execute the writ or warrant deliuered to him. And in the execution thereof hee is truly to pursue the effect of the same writ or warrant in euery behalfe, and according as the same commandeth.

A sworne and knowne Officer, needs not to shew his writ or warrant when he commeth to serue it; but then hee ought to declare the contents thereof, (*scz.* at whose suite he maketh the arrest, &c. for what cause, out of what Court; and when it is returneable) to the

the end the party may free himselfe by payment, &c. or by finding sureties. Yet this declaring of the contents of the warrant by the Bailife or other Officer must bee vnderstood when the other party yeelds himselfe to the arrest, and not when the partie maketh resistance.

A speciall baylife, or the Sherifes or Vndersherifes seruant (being no sworn baylife) must shew their warrant to the party demanding it.

And it is safe for euery Baylife (or Officer) to keepe their warrants by them, thereby to make iustification if need be.

An Officer giueth sufficient notice what he is, when he saith to the party, I arrest you in the Kings name; and the party ought to obey him (at his peril) though he knowes not him to bee an Officer,

If the Officer commeth to arrest a man, and he flyeth, the Officer may pursue him, and take him againe, though in another County: But if he were arrested, and then flyeth, the Of-

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ficer may not onely pursue and take him, but may also iustifie to beate him if he resisteth,

If there be two or moe of one name; the Sherife may retorne it so, and that therefore he knew not how to execute the writ, *hic cap. 61.*

For to arrest one man for another, or to attach one mans goods for another, is punishable.

If an Officer doth arrest a man before he hath a warrant, and afterward he procureth a warrant (or a warrant comineth to him) to arrest the party for the same cause, yet he is punishable for the first arrest.

A Sericant in London attacheth a man before the suite or playnt bee entered, the Sericant is punishable,

If the Sherife, &c. shall make anie warrant (to arrest or summon, &c. any person) without an originall writ as well the Sherife or other party that made such warrat, as also the procurers thereof, shall be punished to the king, and party grieved.

And yet if a *Capias*, &c. shall come
to

to the Sherife without an originall, and the Sherife shall make warrant thereupon, or otherwise execute the same, he is excusable; and the arrest thereupon made is good.

If the Sherife shall make his precept to the baylife of a Liberty, reciting that he hath receiued the Kings writ to take the body of such a man, whereas there came no writ to the Sherife, this is a good excuse for the baylife, and the party is to haue his remedy against the Sherife.

An Atturney maketh a *Capias* directed to the Sherife, where there is no originall, the Atturney shall be grievously punished.

If the Officer arreste h one vpon a *Capias*, and after retorne *non est inuentus*, he is punishable.

After the Officer hath arrested a man, if he suffereth the prisoner to go at large to seeke sureties, &c. Or to goe by bayle or baston, yet it is an escape, and punishable, though the prisoner shall come againe.

And if the prisoner commeth not
F 3 againe

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again (at his day) yet the Officer can not after take or arrest him again upon his former writ or warrant.

Where a man is in Execution for Debt, and the Sherife or Gaoler lets him goe at libertie for a time, and then to retorne, and hee commeth againe at the time, yet this is an escape, and the Sherife shall be charged for the debt,

But if the prisoner had escaped of his owne wrong without the Officers consent, the Officer may take him againe, when and wheresoever hee shall find him.

Old Sherife.

If an Officer shall arrest a man by vertue of a warrant from the old Sherife after he is discharged, an action lyeth both against the Sherife and Officer.

So where any man not hauing authority, shall make a warrant to arrest another, and thereupon the Officer shall arrest the party, the action lyeth aswell against the Iudge, &c. who made such warrant, as against the Officer.

If

If a man be imprisoned vpon a warrant from a Iustice of peace (for some riot, forcible Entrie, for the peace, or the like) and after a *Capias* (or other writ) commeth out of the kings court, to the Sherife to arrest the same person, the Sherife vpon the *Capias* must retorne this speciall matter, and must haue the body of the prisoner in Court at the day, whence after his answer put in he shall be remitted by the Sherif into the country there to make answer before the Iustices of Peace,

Note when a man is in the Sherifes custody by proces of law, or other lawfull warrant, and after another writ is deliuered to the Sherife, to take the body of the same man, the Sherife is now chargeable with him vpon both the writs; and if the Sherife shall refuse to take the second writ, or shall not keepe the prisoner thereupon, it is an escape in the Sherife.

Also, note that any subiect of this Realme may besued (and arrested) be hee bond or free, woman or infant, or Religious person, or be they outlawed,

The person:

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excommunicated, or any other without exception, See *Plus hic* 21. & 24.

And yet the body of a Noble man may not be arrested vpon a *Capias* in procelle; but vpon a contempt they may,

Place.

The Sherife (or other Officer) may execute the Kings Writ within the Churchyard or Church, so that it be not done to the disturbance of diuine seruice.

But no man may arrest any Minister, &c. which is doing any Diuine Seruice.

Time.

The Sherife (or his Officer) may execute any proces, or doe any other Ministeriall Act vpon the Sabbath day, at the suit of the king, or of the subiect.

The Sherife (or his Officers) may also execute any proces, or do any other Ministeriall act in the night time.

But the Sherife, nor his Officers, may not breake open any mans house in the night time, to execute any proces or to doe any other ministeriall act: or the law giueth no colour to breake a mans house by night.

Vpon

Vpon a *Capias* or *Latitat*, &c. the Sherif or his officers may arrest the party the same day in which the writ is returnable, or which is the day of appearance (*scz.* before the fourth day.)

If the Officer shall not arrest the party, when he findeth him, and may arrest him, he is chargeable to the Plaintiff for his whole damage.

Note that Writs concerning common Plees (Reall, or personall) are of two sorts, *scz.* *Pracipees*, or *Si fecerit te Securum*, &c.

Vpon *Pracipees* the Sherife is to command the defendants to doe somewhat in certen, which the Plaintiff sueth for, which if he doe not, then the Sherife is to serue the processe.

But vpon *Si fecerit te Securum*, the Sherife is to serue the processe without more adoe.

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CHAP. 23.

*Warrants upon meane proces,
their formes.*

THe Sherife or his Vnderherife, to whom any meane Procelle or Writ shall be deliuered, are either to execute it themselves, or else are speedily to make out warrants to their bayle or other Officers for the execution thereof.

And these warrants must bee made according to the seuerall natures of the Writs, which for the substance will direct them therein.

But whether these warrants be made in Latin, or English, it is not materiall, so that they bee made in due forme,

The

The forme of. a warrant (from the
Sherife to the Baylife) to cause
one to appeare.

A. B. Miles vicecom' Com' pred' bal- cantabr.
liuo (a) Hundred de R. (b) salutem.
Ex parte Dom' Regis (c) tibi mando,
quod (d) capias I. S. si & c. Et eum salvo
& c. Ita quod habeam corpus eius co-
ram (e) Iustic' Domini Regis apud
Westm. in (f) Octobris. Sancti Hillar.
ad respon' C. D. de plito (g) Debiti.
Et hoc, & c. Datum sub sigillo Officii
mei decimo die Aug, An' regni Domi-
ni Regis nunc Anglia, & c. 3.

Per A. B. milit vice com'.

(a) Libertatis de E.

Omnibus balliis meis, tam infra
libertat', quam extra.

Omnibus balliis meis infra comit'
pred'.

(b) Necnon I. W. & T. B. balliis
meis hac vice, & eorum cuileber.

(c) Vobis comunctim & dinisim.

Vobis

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*Vobis & cuilibet vestrum coniunctim
& diuifim.*

(d) *Capiatis, seu unus vestrum capiat.*

(e) *Domino Rege (if in the Kings Bench, &c. See cap. 75.)*

(f) *Die Iouis prox' post Octob.*

(g) *Transgressionis,*

Conuentionis.

Detentionis. &c.

Warrant de Destring'.

cantabr.

A, B. (&c. ut supra) *mando quod distring' I. S. de W. armig' p omnes terr' & catalla sua, &c. Ita quod habeam corpus eius coram Iustic', &c. Ad respondend' tam Domino Regi quam I. D. de plito transgress. &c. sub p'na, C. s.*

Alias.

Ita quod habeas corpus eius coram Iustic' domini Regis ad pacem in Com' pra'd' ad prox' Session' suam apud C. senend', ad respond' dicto domino Regi de diuersis transgress. unde Indictatus est, &c. sub p'na 40. s.

Ano

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Another forme of a Warrant.

Decimo die Aug. An' Dom' 1628.

By vertue of the Kings Maiesties *Canabr.*
writ to me directed, retornable *Coram*
Domino Rege apud Westmon. die Iouis
prox' post quind' sct' Hillarij, &c. (reci-
ting the words in the writ) you shall
arrest I.S. if he may bee found within
my Bayliwicke, to answer to C. D. in
a plea of trespasse, &c. (or in a plea of
debt, &c. according to the writ) *Da-*
tum sub sigillo Officij mei, die & anno
supdictis.

p A.B. Milit'
Vicecom'.

To I.P. and R. S. my speciall Bai-
lives in this behalfe, ioyntly and seue-
rally greeting.

A

The Office of a Sherife.

A good forme of a warrant to be
vsed vpon Executions, or
vpon a *Capias vtili-*
gatum, &c.

Cantabr.

*A. B. Miles vic' Com' præd omni-
bus balliis meis tam infra libertat'
quam extra Necnon I.B. & C.D. bal-
liis meis hac vice tantum salutem.
Ex parte & dom' Regis vobis & cuilibet
vestrum coniunctim & diuifim
mando, Quod Capiatis seu vnus vestrū
Capiat I.S. si, &c. vt supra.*

CHAP. 24.

*Executions how to be done
and executed.*

And first vpon a Statute Merchant.

*Statute Mar-
chant.*

VPon a Statute Merchant, the She-
rife vpon the *Capias* must first
take the body of the Conusor or Deb-
tor, if he be a Lay-man (and can bee
found;)

found ;) and must keepe him safely in prison, vntill he hath satisfied, (or agreed for) the debt and damages.

And after halfe a yeare (which time is giuen to the debtor being taken to sell his lands and goods to pay his debts) if the debt be not satisfied, then vpon an *Extendi fac'* the Sherife shall by a Iury preise the lands and goods, and then shall deliuer all his lands and goods to the Creditor, by a reasonable rate, extent or value ; and yet the body shall remaine still in prison, vntill the debt be paid.

Also vpon the *Capias*, if (the party cannot be found, and that) a *Non est inuentus* bee returned by the Sherife, an Extent (or *Extendi facias*) shall goe out, (against the Conusors lands and goods, and against his body) vpon which the Sherife shall presently cause all the Conusors lands and goods to be preised by a Iury, and to be deliuered to the Creditor ; or else hee may cause the goods to be sold so far as the debt doth amount, and the debt to be presently paid to the Creditor.

And

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And the Sherife shall deliuer the same lands and goods, to the Creditor at a reasonable price (*scz.* as much as doth amount to the debt, &c. And here if the Sherife shall retorne that he hath extended the lands, &c. he must retorne further that he hath deliuered the same to the Plaintiff. *Hic cap. 58.*

If the preisors of the lands or goods, (*scz.* the Jurors) doe ouer value them; then shall the same lands and goods be deliuered to the same preisors at the same price, and they forthwith shall be answerable vnto the Creditor for his debt or duty contained in the Statute Merchant, and chargeable with the payment thereof at such dayes, as the Rents or reuenues are payable or receivable.

CHAP. 25.

Execution vpon a Statute Staple.

VPon a Statute Staple, the Sherife vpon the Writ of Execution shall take

take the body of the Conusor (*si laicus sit, &c.*) And shal also presently by a Iury, extend and value or preise his lands, Tenements, goods and chattels.

But the Sherife must seise the lands and goods into the Kings hands, and shall retorne the same extent and Presentment into the Chancery; whereupon a *Liberate* shall come to the Sherife to deliuer those lands and goods according to the same Extent or Preisement to the Conusee (if he will) to the value of his debt and damages, &c.

And so note that vpon a Statute Staple, the Extent and preising of the lands and goods of the Conusor shall be first made and returned by the Sherife; But the Sherife shall make no deliery thereof to the Conusee till the *Liberate* come; vpon which Writ deliuered to the Sherife, hee shall then (without any other Inquisition) deliuer to the Conusee such lands and goods as were before taken in execution, and according to the former valuation by the Iury.

And the Sherife hauing taken the
G body

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body of the Conusor, must keepe him safely, vntill he hath satisfied the debt and damages, or otherwise agreed for the same.

If the preisors of the lands or goods doe ouer value them, then they shall be deliuered to the Preisors, and they shall be answerable to the Creditor, as in case of a Statute Merchant.

The Sherife vpon an *Extendi facias* (to haue execution vpon a Statute Staple) doth extend the lands of the defendants, and preiseth his goods, and seiseth them into the Kings hands according to the Writ, but before the deliuey thereof to the Conusee another writ of *Prærog.* commeth to the Sherife out of the Eschequor for the King, to leuy a debt for the King, the Sherife must first leuy the Kings debt, and to retorne that Extent into the Eschequor; for the King by his *Prærogatiue* shal first haue execution of those lands and goods; for that the property of the goods, nor possession of the lands, are not in the Conusee, vntill they be deliuered to him by the *Liberate.*

berate. Plus hic cap. 58.

Also note that the King shall be preferred in all his suites and executions, before any subiect, *scz.* if his suite bee commenced before the other hath iudgement.

Againe, for the Kings debt by specialty not onely the body of the Debtor, but also his lands and goods in his owne hands, or in the hands of his heires, assignes, executors, administrators, or possessors are lyable. *hic cap. 10.* Yea the heire in Tayle is chargeable.

And all obligations and specialties made to the King for any cause, shall be of the force of a Statute Staple.

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CHAP. 26.

What lands shall bee extended, or taken (by the Sherife) in execution vpon a Statute, in case of a common person.

VPon a Statute Marchant or Staple, all fee simple lands which the Conusor had at the time of the Statute acknowledged, or at any time after, are extendable, into whose hands soeuer they shall come.

In a writ of Debr, execution shall be of any land which the defendants had the day of the iudgement giuen.

Lands intayled are lyable onely during the life of the Conusor.

But if he sells the lands, then are they liable in the hands of his feoffee.

A Lease for life, or yeares is extendable.

The wifes lands are extendable during the Couerture.

Lands in Ancient Demesne are
exten-

extendable: *quare tamen.*

Copihold lands are not extendable.

A Rent may be deliuered in Execution.

But an Anuitie cannot be deliuered in Execution; Nor any other thing which may not be granted or assigned ouer.

Lands come to the Kings hands can not bee extended: and so all other the Kings lands are exempted from executions.

Reuerfions and Remainders shall be extended, *cum acciderint.*

If the Conufor be taken and dyeth in prifon, yet his lands and goods may be deliuered to the Conufee in execution.

If the Conufor efcapeth out of prifon, yet his lands and goods may bee extended, &c.

If the lands be in execution to another man; or that another is in poffeffion of the land by Difcent; the Sherife may not put them out of poffeffion without a *Scire facias*: And therefore

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in such cases the Sherife ought first to retorne such speciall matters vpon the writ *de Extendi facias*, *Vide hic* retorn *de Elegit*.

Goods.

All the goods and leases for years which the Conusor or Debtor had the day of the Iudgement, or at the time of the Statute or Recogn' acknowledged shall be extended (by some opinions :) But yet by the better opinion, onely such goods as he had at the day of the execution awarded or sued, *Plus hic cap. 20.*

CHAP. 27.

Execution vpon a Recognisance.

VPon a Recognisance, the Sherife is to extend the moytie of all the lands, &c. which the Conusor had at the time or day of the recognisance acknowledged, or at any time after; but this is after the *Scire facias* returned by the Sherife, and thereupon an *Elegis* awarded to the Sherife.

And

And this Extent of the moytie of the lands, shall be made by the Sherife, by meetes and bounds.

Also the moyty of the lands which the Sherife hereupon shall deliuer to the Conusee, shall be to the Conusee untill the debt be payd or leuyed at or by a reasonable rate out of the annual rent of the land.

Also the Sherife (vpon a Recognisance) is to extend all the goods and chattels of the Conusor; except his plow, cattell, and implements of husbandry.

And this extent (or valuing & preising of the lands and goods of the Conusor vpon a recognisance) must also be by an Inquisition or Iury of 12. men which the Sherife (in such cases) must charge to make enquiry according to the writ.

And if the preisors of the lands, or goods, (*scz.* the Iurors) doe oueralue them, then they shall be deliuered to the Preisors, and they shall be answerable to the Creditor for the debt, as in case of a Statute Merchant.

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CHAP. 28.

Execution vpon an Elegit.

BY force of an *Elegit*, the Sherife may take in Execution, & deliuer vnto the creditor, the one half of all the Lands, Tenements, and Rents of the Conusor or Debtor (at a reasonable extent) and all his goods and chattels, except his Plow cattell) vntill the debt be leuyed vpon a reasonable price, or rate, *scz.* so that the Conussee (out of the goods and yerely rent of the lands) may be satisfied his debt in some reasonable time.

And vpon the *Elegit* the Sherife may deliuer in execution the moyettie of all such houses, lands, tenements, and rents, as the debtor had at the time or day of the Iudgement giuen, or at any time after.

And the execution shall bee made (by the Sherife) of the moyety of the lands, by meets and bounds.

The

The Extent or valuation of the lands, &c. and the appreising of the goods, ought to be by a Jury, &c. for the Sherife himfelfe (in thefe and the former cafes of a Statute or Recognifance) can not appreife the goods, nor value and extend the lands; neither may he deliuer any goods in execution (vpon an *Elegit*, Statute, or Recognifance) or extend any lands, but fuch as are preifed, &c. by a Jury.

But vpon an *Elegit*, if the Lands or Goods be ouerpreifed, the preifors or Jury, are not chargeable, nor fhall haue the goods deliuered to them, as in cafe of a Statute.

Note that in all cafes where the Sherife is to extend, value or preife any Lands or Tenements, or any Goods, the Sherife and the Iurors may lawfully goe together to the Lands, &c. to be extended, or into the houfe or vpon the grounds where the goods be, and there may value and preife them: But the Sherife may not breake open the doores, or gates to this purpofe.

Coppihold lands fhall not bee deli-
uered

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uered (by the Sherife) nor extended vpon an *Elegit*.

Nor lands in ancient Demefne shall not be deliuered in execution by force of an *Elegit*.

The Lands of a Bishop, or Lands which a man hath but during the Coverture, may be deliuered in Execution vpon an *Elegit*.

Vpon an *Elegit*, if the Sherife shall extend a Lease for yeares (the Iury (which he shall cause to enquire thereof) must finde the beginning of the Lease, and also the certenty of the terme to come.

And this certentie of the Terme ought to appeare vpon the Sherifes retorne of the Inquisition.

But vpon a *Fieri facias*, the Sherife may extend and sell away the Lease or Terme without reciting any certenty, *scz.* the Sherife may (in his sale therot) recite that the Debtor hath a Terme of such a Close, *pro termino diuersorum annorum adtunc ventur*: and that he selleth the same to I.S, by force of the *Fieri fac*, &c.

But

But if the Sherife will take vpon him to recite the Terme, and recites it falsely, and so selleth the same Terme, such his sale is void; except withall the Sherife selleth also, all the Interest which the debtor hath in the same land.

Also the Sherife, ought not (or at least needeth not) to mention any certainty of the Terme in his Retorne of the *Fieri facias*, but generally *quod fieri fecit de bonis & catallis &c.*

And the Sherife hath election either to sell quite away a lease for yeares remaining in the debtors hands; or else he may onely extend and deliuer the same terme or lease to the Conusee at a certaine yearely value, which last seemeth to be the most indifferent courie, for that there still remaineth a property in the Conusor, so as vpon payment of the debt he may haue his terme or lease againe.

Note that no stay or delay of any execution shal be vpon any writ of Error, or *Superfedeas*, except there be security first giuen to the Plaintife (in the Court where the Iudgement shall be

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be giuen) to prosecute the Writ of Error with effect, & to satisfie the debt, dammages, and costs, &c. 3. *Iacob. Cap.8.*

Plus hic Cap.58.

CHAP. 29.

Execution vpon a Capias ad satisfaciendum.

VPon this Writ the Sherife must arrest and take the bodie of the partie, and put him into prison, and there must keepe him without Bayle or mainprise vntill satisfaction (or agreement) be made to the Plaintife, of the whole debt and dammages recovered against him.

So that if the prisoner doe escape, the Sherife must pay the whole debt and dammages, except the prisoner be presently taken againe vpon fresh suit.

Also if the Sherife shall suffer such a prisoner to goe out of prison, vpon Bayle

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Bayle, or with a Keeper, (except it bee by the Kings Writ) the Sherife shall be answerable for the debt.

And therefore the Sherife must bee sure to keepe such prisoners safely, and may put them in fetters and gyues.

But if such a prisoner doe escape (of his owne wrong, *scz.*) against the will, or without the consent of the Sherife or officer, then the Officer may take him againe (by vertue of the same Writ, before the Retourne thereof) when and wheresoeuer he can find the prisoner, although it bee in another Countie.

Yea, it seemeth the Sherife at any time may take such prisoner (making an escape of his owne wrong) againe, and may keepe his bodie in custodie vntil he hath made his agreement with the Sherife, &c.

Or where such a prisoner doth escape of his owne wrong, if hee bee taken againe by the Gaoler, &c. the prisoner shall remaine in execution for the partie againe, if the partie will.

And yet where a Knight or Bour-
gisse

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gesse of the Parliament, or other person so priuiledged, shall be taken in execution, the Sherife ought presently to deliuer such prisoner being sent for by the House, &c. and the partie may after the Parliament haue a new execution against the Debtor.

What persons may not bee arrested and taken vpon a Writ of Execution, See *hic* ca. 21. & *hic infra*.

Such persons as are necessarily attendant in any of the Kings Courts, although they being arrested vpon any originall Procelse, shall be discharged thereof vpon shewing their Writ of Priuiledge; yet if they shall bee taken vpon any execution, the Sherife ought not to deliuer them vpon their writ of Priuiledge, for then the partie should be without remedie.

Where a man is in the Sherifes custodie vpon an execution, the Sherife may not deliuer him, nor suffer him to goe at large, (though with a Keeper) vpon any commandement of any of the Kings Courts, or Iustices, (as it seemeth) without it be by the Kings writ.

Plus hic Cap. 21.

Yet if one in execution bee suffered to goe at large for a time, by the commandement of the Court, and by the consent and agreement of the Plaintife, and after the prisoner returneth againe, this is not any escape.

But where the Sherife hath one in execution for debt, if an *Habeas Corpus*, or *Corpus cum causa*, cometh to the Sherife, to haue the bodie at Westminster, &c. vpon a certaine day; heere the Sherife may not onely carrie his prisoner to London through another Countie, but the Sherife in these cases may go and take what way or place he shall thinke to be most sure and safe for himselfe, and to carrie his prisoner.

And vpon a *Corpus cum causa*, or a *Certiorari*, &c. procured by any person being in execution, the Sherife must returne the truth or cause of the prisoners imprisonment, that so the prisoner may be remanded, &c.

If the Sherife shall arrest one vpon a *Capias ad satisfaciendum*, and shall not returne the Writ, nor satisfie the
plaintife,

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Plaintife, this is an escape, and the Sherife is chargeable for the debt; neither may the Sherife arrest the party againe for the same cause, *Vide hic cap. 54.*

If the Sherife hath arrested one vpon a *Capias ad satisfac.*, &c. and after the prisoner is rescued from him, this is an escape, and the Sherife is chargeable for the debt.

Execution vpon a Lenari facias.

Vpon a *Lenari facias* the Sherife cannot seise the lands, and deliuer them to the party: but he is onely to take the corne, grasse, and other profits growing vpon the lands, and the goods and chattells of the debtor; and may deliuer them to the party; and the Sherife may take the Rents payable by the tenants (in execution of the debt) and bring them into the Court.

Note that the Sherife in debt, may deliuer any land whatsoever that the party had; the day of the Iudgment giuen, or at any time after, into whose hands soeuer they shall come.

But

But as to Chattells, the execution shall be of such onely, as the party defendant had the day of the Execution sued, *scz.* the day of the Teste of the writ of execution; So that if the defendant shall sell his goods *bona fide*, after iudgement, and before the writ of execution sued, those goods are not to be taken by the Sherife, nor liable to the execution; But if the defendant hath sold his goods by Couin after the Recouerie or writ of Execution sued, there the Sherife may take those goods in execution. See *hic cap. 61*,

CHAP. 30.

Execution vpon a fieri facias.

VPon a *fieri facias*, the Sherife is onely to take in execution the goods & chattels of the defendant, *scz.* his leases for yeares, (of houses or lands) and his corn growing, or sowne vpon the land, or his moueable goods, as corn in the barne, cattell,

H Household-

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houſhold-ſtuffe, money, plate, apparrell,&c.

And here the Sherife may either keepe the goods himſelfe, making his retorne accordingly ; or the Sherife may deliuer the goods (or money for the ſame being ſold) to the plaintife in execution ; or rather the Sherif may ſel the goods, and bring the mony into the Court, and ſo the Court to deliuer it to the Plaintife.

And vpon the *fieri facias*, the Sherife needs not to preiſe the goods by a Iury ; but the Sherife himſelfe may ſell the goods as well as he can ; and yet to preiſe them by a Iury, and then ſell them, is more indifferent and ſafe.

Vpon a *Fieri facias*, the Sherife may ſell a Leaſe or Terme for yeares, without (enquiry of the value by) a Iurie.

Note that the Sherife is commanded and compelled by this writ of *fieri facias* to ſell the goods of the defendant. And the property of the goods ſeiſed by the Sherife vpon this writ, are not altered

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altered by the seifure, but by the Sherifes sale thereof.

For the words of the *Fieri facias* be *Pracipimus tibi quod de terris & cattallis prad'I.S. fieri fac' C.s. Et illos habeas, &c. ad respond, &c.*

And here though the iudgement be afterwards reuerfed in a writ of Error, yet the defendant shall haue no restitution of his goods, but onely shall haue the value thereof as they were sold; and the buyers thereof shall quietly enioy them, because the Sherife had lawfull authority to sell them,

Vpon a *fieri facias* come to the Sherifes hands against A. If A. shall happen to die before the writ be executed, here the Sherife may execute the writ vpon the Executors, or Administrators of A. Or the goods of A, comming to the hands of any stranger, the Sherife may leuy or make Execution of these goods in the hands of the stranger.

But the Sherife (or other Officer) must be carefull that they take none but the defendants or debtors owne goods in execution: for though they

H z

shall

The Office of a Sherife.

shall finde them in the possession of the defendant, yet if vpon triall they shall be found to be none of the defendants goods, then the Officer which shall take any such goods in execution is punishable and chargeable to the right owner of the goods.

If therefore it shall bee doubtfull to the Officer, whether the goods bee the defendants or no, let the Sherife take heed that he retorneth not that he hath taken so much goods of the defendants, and that he hath *Denarios illos paratos ad reddendū, &c.* for so he may be charged double for them, *scz.* both to the Plaintife, and to the defendant for the same goods.

But let the Sherife either keepe the goods himselfe vntill the parties bee agreed: Or else let the Sherife take securitie of the Plaintife to saue him harmlesse, &c. And to stay the retorne of his writ vntill he be well aduised what to doe therein.

Or rather where the property of the goods is doubtfull, it is safest for the Sherife, either not to meddle at all
with

with such goods as shal not plainly appeare to him to be the proper goods of the defendāt; or else to enquire by a Jury in whom the property of the goods be; for the Sherife or Officer at his perill must take knowledge in whom the property is; but being found by the Jury, it excuseth the Sherife.

Also if the Officer shall attach goods which are not the proper goods of the defendant; or shall arrest one man for another of the same name, in both these cases the Officer is a Trespasser.

Goods gaged or pawned for debt, can not be taken by the Sherife in execution: nor goods demised or letten for yeares, nor goods distreined.

Vpon a *fieri facias*, if the Sherife shall leuy the money, and shall keepe the same in his hands still, the partie Plaintife may haue his action of account against the Sherife.

And if the Sherife shall retorne *fieri feci, sed non inueni Emptores*, then a *venditioni exponas* shall goe out; *mes la party nauera unques un nouel Exceution.*

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Note that vpon a *fieri facias* to le-
uy xx.l. if the Sherife retorneth *fieri fa-*
ci x.l. *quas habeo ad diem, &c.* at which
day he hath not the money, and then a
new Sherife is chosen; here the Plain-
tite shall recouer that x. l. against the
old Sherife, &c.

CHAP. 31.

Summons.

All Writs or Procelle concerning
the Common Law, shall be awar-
ded vnder the great Seale of England;
and shall bee made out in the Kings
name onely,

Summons is a writ directed to the
Sherife, commanding him to bring in
the party by a day, or to cite or warne
the defendant or tenant to appeare at
a certen day to answer to the plaintife
or demandant.

This Summons ought to bee made
by (or in the presence of) two Sum-
moners (at the least) being neighbours,

G.

& liberi & legales.

In Reall actions the Sherifes order to execute this procelle (of *Summoners*) is to goe himfelfe, or to fend his baylife to the land, with the Summoners, and there to cite or warne the tenant or party, by sticking vp of a white sticke in his land, which being done, the Sherife must retorne two common Pledges for the Plaintife, and then the names of the Summoners thus.

Responsio A.B. vic' Com' infrascr'.

Pleg' de profe- { Iohannes Doo.
quendo { Richardus Roo.

See *hic* cap. 45.

*Summonit' infranom' } Rich. Den.
I. S' (the defendant } Hen. Fen'.*

This Summons or warning of the defendant to appeare and answer, &c. is so necessary by the Common Law, as that without the same, all the proceedings, yea and the Iudgement after, are oftentimes made frustrate, and be-

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sides the Sherife subiect to punishment.

In Reall actions the Sherife (or his Officer) must summon the tenant or defendant vpon the land, demanded (be he tenant thereof, or no) and this summons to the tenant must be first to keepe his day of the retorne (naming that in certen) to answer to the demandment, &c.

Secondly, to shew the name of the demandant.

And lastly, to name the land in demand.

And in writs of Summons the Sherife may not alledge or retorne *Non tenancie*, in him whom the writ supposeth to be tenant.

In a *Perite Cape* the Sherife must summon the tenant to answer to his default onely.

But in a *grand Cape* the tenant shall be summoned to answer to his default, and further to the demandment.

And the Sherife may come vpon the land with the Summoners, and there summon the party, yea if the Sherife

Sherife by information of the demandant shall summon the Tenant in another mans lands, the Sherife shall bee excused for such his Entree, &c.

But the Summons (in a *Precipe*) ought alwayes to bee done in the day time (*scz.* betweene Sunne-rising, and Sunne-setting,) and not in the night.

Where the action is to recover the free-hold of land it selfe, the Summons must be made in the same land.

Where the action is brought against one as heire, there the Summons must be in land that did disceind.

Vpon a *Precipe*, if the defendant be not tenant of the land in demand, yet the Sherife is to summon him vpon the land in demand, *eo quod petens testatur quod tenens est.*

So he in reuerſion shall be summoned *in terra petita*, although it be another mans freehold.

But the party can not be summoned by a rent seruice, rent charge, common, nor the like, for that the soile is another mans freehold; nor by his goods.

And

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And yet in Affises of *Novel dissei-
fin*, and Nufance, where the originall
proces is an attachment, *Pone p vadios
& saluos pleg*, there the defendant may
be summoned, *scz.* attached by his
goods.

Also where a man hath no land
wherupon he may be summoned, there
the Sherife may summon him by his
person; as in actions of annuity, coue-
nant, or the like.

In a writ of Right of Aduowson, 'as
also in a *Quare impedit*, the Sherife
may Summon the defendants in the
Church.

In a *Pracipe* against 4. if the Sherife
summoneth one, that is a Summons to
all, *Tamen vide hic cap. 70.* that al must
be summoned.

In an action of debt brought for
damages recovered in a Writ of En-
trie, &c, the Summons shall be to the
person.

And so in all personall actions, the
Sherife must Summon the defendant
by his person.

In a *Scire facias* against a Clerke,
the

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the Sherife is to summon him onely by his land, if he hath any Lay fee ; or else by his person ; but not by his goods.

If the Sherife shall retorne one summoned, who was not summoned , the Sherife is punishable, *hic cap.70. & 85.*

Note that in every writ, the defendant ought alwayes to bee summoned 15. dayes at the least, before the day of the retorne of the writ.

By the booke called the Mirror of Iustices, reasonable Summons is when it is testifiable by two lawfull free witnesses, neighbours, and made to the person, or at the house or tenement conteyned in the demand, with warning of the day, place, party, Iudge, and of the action, and with reasonable respite at the least of 15. dayes, to make their answer, &c.

Note also that the Sherife cannot summon himselfe, nor serue any other proces vpon himselfe, *hic cap.44.*

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CHAP. 32.

Attachment.

AFTER the Summons, if the tenant or defendant commeth not in, then there issueth an attachment, which is a Proces authorizing the Sherife to goe to his house, or land, and there to take Surety by pledges; or to attach him by his hoods; to the end that hee shall appeare and answer to the Plaintife or demandant.

So that vpon the attachment, the Sherife (or his Officer) may either go to the parties house, &c. and there take of him Sureties or Pledges for his appearance, yet these Pledges are not to be bound in any summe, but onely to giue their words for the appearance of the party. and if he shall not appeare, then these Pledges shall be onely amerced.

Or the Officer may attach the party by his goods, citing him to appeare
and

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and answer such a day, at such a mans
suit, in such a Court, and for such a
cause, &c.

Or if the Officer shall onely give
warning to the tenant or defendant, (in
the presence of two others) to appear
such a day, in such a Court, at such a
mans Suite, &c. it is good enough.

A Clerke or Ecclesiasticall person
may not be attached by his goods; but
must bee summoned or warned by
his person, or vpon their lands if they
have any lay fee.

The tenant or defendant can not be
attached by his land; nor by any parcell
of his freehold, as by a clod, &c. nor by
any chattel reall.

Neither may a table dormant, or
any other thing which is fastened to
the freehold be attached (as a furnace,
doores, windowes, waynescots, pales,
or the like:) and if the Sherife shall at-
tach a man by any such thing, he is pu-
nifhable.

But an attachment ought to be made
by such goods of the defendants owne
proper goods as are moueables, *scilicet* by
meere

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metre chattells personals, which may be forfeited by vtlary.

The party may not be attached by his horse whereupon he rideth, if hee hath other goods whereby he may bee attached.

Neither may a man be attached by his Apparell which is vpon his bodie.

No goods shall be attached but the proper goods of the defendant; and not goods that are pawned or borrowed.

If the goods attached bee quick cattell, the Officer may impound them in a Common pound.

If they be dead chattels (as a pot, Panne, or the like) the Officer may take & carry them away to his owne house, &c. Or the Officer may first attach them, and then take Sureties for the redeliuering thereof, &c. and so leaue them with the owner who was attached thereby, But this is not so safe without taking good sureties, or taking an obligation of the owner, for the Redeliuery thereof, if hee shall make default

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fault of appearance, &c. which obligation so taken seemeth to be good.

If the defendant shall not appeare at the day of the retorne, then the goods attached are forfeit to the king; and the Sherife shall be answerable for the value thereof.

If the Officer shall leaue the goods or cattell attached with the owner (as aforesaid) yet the Officer may take them againe vpon default of appearance.

A Baylife sworne and knowne may make an attachment without any warrant in writing, for to him a command or warrant by word onely is sufficient.

The seruant of the Plaintife (or any other stranger) may make the attachment, if so he hath the Sherifs warrant.

A woman Couert shall bee attached by her husbands goods.

The defendant or tenant must alwayes be attached 15. dayes (at the least) before the day of the retorne of the writ.

And for default thereof, the Sherife shall be amerced.

CHAP.

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CHAP. 33.

Capias ad Respond.

IN reall Actions, when the Tenant hath beene attached, and appeareth not thereupon, or if he appeare, and after maketh default, then issueth the grand Distresse, whereby the Sherife is commanded to distreine the Tenant by all his goods and chattels which he hath within the same Countie, & also to answer the King the profits of his Lands.

In Trespasse, and other personall Actions, if vpon the Attachment or *Distringas* the Sherife returneth *nihil*, then there goeth out a *Capias & Alias, Pluries, & Exigent, &c.* if the defendant be not taken, nor yeelds himselfe in the meane tyme.

This Procelle is to take the bodie of the Defendant: And vpon this *Capias ad Respondendum*, the Sherife, &c. shal first arrest, and after imprison the party.

tie; or else must take bonds of him, with good Sureties for his appearance, &c. The forme whereof See *hic*, Cap. 97.

Where the Sherife hath arrested one by force of his Writ, if the Plea shall happen to be discontinued by the Kings death, or otherwise, the Sherife may there suffer such his prisoner to go at libertie without danger.

Note, that if the *Pluries* be not serued, it is a contempt in the Sherife, wherupon an Attachment lieth against him.

CHAP. 34.

Venire facias.

THis Writ is of two sorts most vsuall.

The one is, to cause the partie, (*scz.* the Defendant) to come in and answer, &c. And this is but as a Summons, and vpon this, if the Defendant be returned sufficient, and maketh de-

I

fault;

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fault, then a *Distringas* shall goe out : but vpon a *Nihil* returned , a *Capias*, *Alias*, and *Pluries* goeth out, *Vt supra*.

The other is, to cause the Sherife to impannell and returne a Iurie.

Vpon the *Venire facias Iuratores*, (which also is but as a Summons) if the Sherife shall returne the names of the Iurie, and they doe not appeare at the day, then shall goe out an *Habeas corpora Iuratorum*, and after that a *Distringas Iuratores*, to distreyn them vntill they come, &c. scz. a *Distringas infinite*.

There be diuers other sorts of this Writ, as you may see in the Register amongst the iudiciall Writs.

Plus hic Cap. 78.

CHAP. 35.

Distringas.

THis Writ is directed to the Sherife, commanding him to destrein the

the partie (Defendant) or the Iurie, for his or their appearance.&c. Or to distreine one for the Kings debt.

A *Distringas* for the appearance of the partie to come and answer, shall go out *infinite*, *scz.* vntill the partie cometh in and appeare.

The partie, as also the Iurors, by vertue of this writ are to be distreined by their goods, and by the issues of their lands, to come, &c. The which they shall lose and forfeit to the King if they come not.

The wife shall be distreyned by the goods of her husband, which shall bee returned by the Sherife in issues.

For the Sherifes distreyning of the Kings Debtors, see *hic* Cap. 10.

There be also diuers other sorts of this Writ of *Distringas*, in the Register, amongst the iudiciall Writs.

Plus hic retorn' de 'Distring' ca. 56.
¶ 78.

Note that this Distresse infinite seemeth to be at the Common Law, in stead whereof the grand Distresse is now giuen in diuers cases, (by statute).

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by which Writ the Sherife is to distreine the Defendant by all his goods and chaucells, and also to answer to the King the issues of his lands: And the said writ is to be read and openly proclaimed in the Countie Court, that the Defendant come in at the day contained in the writ, to answer to the plaintife, &c. And the Sherife is to make retorne of the same Proclamations, &c. *Vide hic cap. 102.*

CHAP. 36.

Retorne of Writts.

NOte that in the execution of all Writts and Procelle the Sherife must obserue two things:

First, he must in euerie behalfe do all that which he shall be commanded by the writ it selfe, & may proceed no further, nor otherwise than the writ authoriseth him.

Secondly, the Sherife is to retorne the same writ into the Court whence
the

the writ came.

These Returnes are nothing else but the Sherifes answers, certifying the Court touching that which they are commanded to doe by the Kings writ, and are to ascertain the Court of the truth of the matter.

And these Returnes seeme to be the most difficult things belonging to their office; for the Sherife must bee verie carefull and circumspect, that he makes these Returnes according to Law, both for substance and forme, otherwise hee shall not onely indanger himselfe to be amerced or sued for the same, but also he shall indammage the parties, & may hazard the cause or suit it selfe.

For the manner and forme therefore of Returnes of writs you must observe these Rules.

1 First, the Returne must be made according to the antient course & Presidents, and by the usuall words.

And therefore in a *Præcipe quod reddat*, or in debt if the Def. yeelds the land, or payeth the money, yet these are no good Returnes. *Hic Cap. 56.*

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70. & 78.

Also omission of words vsuall maketh the Returne voyd: As *Residuum huius breuis*, for *Residuum executionis huius breuis*.

Scire faci A. *quod sit coram vobis*, omitting these words, *Ad faciendum quod breue requirit*.

2 The Returne ought to answer the point of the Writ: As where a *Sci-re facias* is to warne the heire of the lands of *M.* the Sherife must not returne that hee warned the heire of the said *M.* but he must returne him heire of some lands, according as the writ requireth.

3 It ought to bee certaine in the yeare, day, and place, and in the person, yea it ought to be certaine to euerie intent: And yet these (or the like) words in the Returne, *scz. Prout* (or *secundum quod*, or *ad faciendum quod*) *istud breue exigit & requirit*, do oftentimes helpe the incertaintie.

4 The Returne must be true.

5 It must not be repugnant.

6 It must not be double.

7 It

7 It must not bee contrarie to the confession of the partie.

8 It must not be contrarie to the verdict of the Iurie.

9 It must not bee contrarie to the Writ or Record.

10 It must not bee contrarie to a former Returne made by himselfe, or by his predecessour, except in some speciall cases. See *hic* Cap. 44.

11 It would be in true and good Latine.

12 Also the Sherife is not to return any thing which should come in by the challenge of the parties.

13 And yet Surplusage in a Returne doth not make voyd a Returne, for as to the Surplusage the Court taketh no regard.

14. The Sherife ought not to returne Relistance, nor a Rescous, for that in such cases he should haue taken *Posse Comitatus* (except where the Rescous, &c. were to the Bailife of a Libertie, or where the Returne is, That the partie was rescued *per ignotas*) for there it appeareth not, that the Sherife can

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haue any remedy against the offenders,
quare,

Also in a Repleuin he ought not to retorne that the cattell are in a Castle, Fort, or Park, so that he could not make deliuerance; *Causa qua supra.*

15. He might haue retorned (vpon a *Capias*) that the party had taken Sanctuary; but this priuiledge of Sanctuary is now out of vse.

16. He may retorne that the party is fled into such a Libertie, and there continueth, so as hee can not take him.

Yet in this case, if the king be a party, the retorne is not good, for there the Sherife must enter the liberty, and execute the Proces.

Also if the Sherife had once taken the body, and then had come with his prisoner along by a Franchise, &c. and then the prisoner had claymed the Franchise, here the Sherife shall still be charged with the body, and may not retorne *quod fugit ad libertatem, &c.*

Languidus.

17. *Languidus in prisona* seemeth to bee a good retorne.

So

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So if the Sherife retorneth that the defendante is so sicke that hee can not take him (or carry him) out of his house, without danger of his life.

Otherwise where the Sherife was commanded to haue the body there at a day,

Also if he retorne *Capi corpus, sed non possum habere pro malady. Quare* of this.

18. Vpon a *Capias*, the Sherife may retorne that the party is dead, *Tamen quare.* *Mortuum.*

But it is a good *Corpus cum causa*, retorne in these *Pracipe quod reddat*. writs, *scz.* in a *Scire facias*.

Vpon an *Habeas corpora Iuratoru*, or *Distring' Iurator*, if any of them be dead, the Sherife may retorne it accordingly,

But vpon an *Exigent* it is questioned whether the Sherife may retorne the party, *quod mortuum est*; for that by the *Exigent*, the Sherife hath no autho-

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authority but onely to call the party to appeare, and vpon his appearance then to take him, &c.

And it seemeth that the Sherife may not retorne the defendant *Mortuus*, but onely where there are words in the writ, to command the Sherife to summon, warne, or take the defendant, or to distreine him. *Plu hic Atteynt, & Repleuin.*

Note that if the Sherife retorneh that the party is dead in prison, hee must shew further, that the Coroner had the view of the body.

Nihil.

19. In what writs the Sherif may retorne *Nihil* vpon the tenant or defendant. See *hic postea* throughout the retornes of the seuerall writs.

How the retorne of *Nihil* shall bee made. See *hic cap. 45.*

But the Sherife cannot retorne *Nihil* vpon him whom hee hath once retorned summoned, or distreyned in another writ, except it be vpon some speciall matter retorned also by him. See *hic cap. 44.*

If a Iuror be once retorned sufficient

ent, he may not after be retorned *Nihil. Plus hic cap. 44.*

But if the defendant bee retorned sufficient, he may after be retorned, *Plus Nihil. hic cap. 44.*

Also wheresoeuer the defendant is to be summoned, garnished or attached, if the Sherife retorneth him *Nihil, &c.* he shall not doe amisse to retorne further, *Nec est inuentus in ballua mea.* *Non est inuentus.*

20. Again wheresoeuer the Sherif retorneth the defendant *Nihil*, or *Non est inuentus*, his retorne must therein be direct and generall, without these or the like words, *scz. Prout mihi constare poterit*; for he ought to take knowledge.

Also in Reall actions, where the Sherife may Summon the Tenant vpon the land demanded, it is no good retorne, *Quod nihil habet*, or *Non est inuentus*: for that the Sherife in such cases is to Summon the party in *terra petita*, though the land bee another mans.

The Sherife retorned *Non inueni partem*, &c. for *Non est inuentus*,
it

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it is erroneous.

21. The Sherife may not retorne an Inhibition out of the Arches ; for hee is to performe the commandement of the kings writ notwithstanding the inhibition.

22. It is no good retorne for the Sherife that the party will not pay his fees , or costs or charges , and that therefore hee did not execute the writ.

23. Vpon a *Capias* , if the Sherife hath taken the body, and then the defendant shall procure a *Superfedeas* , and deliuer the same to the Sherife, yet the Sherife may not thereupon let his prisoner goe , and retorne the *Capias* with the *Superfedeas* , &c.

But otherwise if the *Superfedeas* had beene deliuered to the Sherife before the party were arrested or taken. See *plus hic cap. 53.*

24. In euery writ (except it be in an attachment, or vpon a *Capias*) the Sherife may retorne *Tarde*, scz. (*Quod breue, adeo tarde sibi venit, or sibi deliberas fuit, quod illud exequi non posuit propter breuitatem temporis,*) and it is good

Tardē.

good, if it be true.

But if the Sherife shall make such a retorne where hee hath sufficient time to serue the writ, he is punishable.

But also if the Sherife shall retorne *Mandani ballino libertatis, &c. qui mihi respondit, quod breue adeo tarde venit quod illud exequi non potuit, &c.* the Sherife shall be amerced, for here it shall bee intended to be the Sherifes default.

25. If the land, or other cause of the suite be within a Liberty, then the Sherife (having receiued the kings Writ) must make his precept to the Baylife of the Liberty; and the Sherife is to retorne his answer. *Mandani ballino.*

But the Sherife must retorne *Mandani ballino*, and not *quod mandauit ballino*. See plus hic cap. 39.

26. Clerks or Ecclesiasticall persons (being beneficed) vpon Proccesse out against them, the Sherife (in most cases) is to warne, garnish, or Summon them by their persons, or else by their lands (if they haue any lay fee:) And if the Sherife can not finde such partie
(to

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(to summon him by his person,) Nor that hee hath any lay fee; Then the Sherife may retorne, *Quod Clericus est beneficiatus, non habens laicum feodum ubi potest summoniri, &c. Nec est inuentus in ballina mea. Plus hic cap. 71. & 75. 56.*

But such Retorne is onely where a *Distringas* or *Capias* goeth out. *Nihil habet* is a good retorne in debt or trespass against a Clerke.

Infant,

27. An infant is impleadable by Law; and therefore in reall actions the Sherife ought not to retorne that the tenant is an infant.

Also Vtlary retorned by the Sherife vpon an infant is a good retorne, if the infant bee aboute the age of 14. yeares.

Woman Co-
tort.

28. In actions against the husband and wife, where the proces is an attachment, the wife may be attached by the goods of the husband: (See *hic cap. 35*) Or rather the Sherife is to retorne pledges vpon them both.

But the Sherife may not retorne the husband attached, & the wife *Nihil*.

Where

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Where the husband and wife are diuorced, yet vpon a *Scire facias* against them, the Sherife is to summon both of them; and must not retorne that they are diuorced.

In a Reall action, the Sherife ought not to retorne that the tenant is a woman couert.

29. Vpon a *fieri facias* against Executors, the Sherife may retorne as followeth. *scz.* Executors.

{ *Quod nihil habent.* Or,
Non habent aliqua bona testatoris.
{ *Quod bona elongata sunt,* (if it be true.)

And if the Executors haue wasted the goods of the testator, or haue imployed the same to their owne vse, the Sherife may retorne a *Denuastauerunt.*

He may also retorne further, *Quod nulla habent bona seu catalla, de bonis suis proprijs, in ballua sua vnde, &c.*

Vpon a *Fieri facias* against Executors, the Sherife retorneth that they haue sold the goods, &c. this is no good retorn; for the Sherif should haue
taken

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taken other goods of the Executors to the value thereof.

So it is no good Retorne, that all the Executors saue one haue nothing; for the Sherife ought to make Execution of that which is in the hands of that one Executor.

Vpon a *Denaſtanit* found, and iudgement giuen against Executors, the Sherife vpon a *Scire facias* against the Executors may seise the proper goods of the Executors, if there be not sufficient of the Testators goods.

So if the Executors shall pleade *Ne vnques* Executor, and that be found against him, and iudgement thereupon giuen, &c.

Plus hic cap. 61.

CHAP.

CHAP. 37.

*Where the Sherife shall be amerced,
or otherwise punished for his
Retorne.*

IT appeareth in the former Chapter,
that if the Sherifes retornes bee not
made according to Law, both for sub-
stance and forme, the Sherife shall bee
punished.

So if the Sherife shall make no re-
torne of the writ (in most cases) hee is
punishable, *hic cap. 38.*

So if hee shall not make a due Re-
torn of every writ that shal be deliuered
to him.

So if his Retorne be incertaine, or
otherwise insufficient.

So if he shall make any false Re-
torne.

If he retournes a *Capi corpus*, or *red-
dit se*, and hath not the body at the
day of the Retorne, he shall bee amer-
ced.

K

And

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And if it be vpon a *Capias ad satisfaciendum*, and the Sherife retorneth *Cepi corpus*, and hath not the body at the day he shall not onely be amerced, but also he shall be chargeable to pay the whole debt.

If vpon a *Fieri facias*, the Sherife returneth *Fieri feci*, &c. and hath not the money in Court at the day of the Retorne of the writ, he shall bee amerced; and yet he might haue paid the money to the Plaintife, and so haue made no retorne. See *hic cap. 30. & 38.*

Vpon a *Fieri facias*, he Sherife returned that he hath leuyed 20. l. but that he durst not bring it, &c. for feare hee should haue beene robbed thereof, and he was amerced for that he had not the money in the Court at the day, &c.

If the Sherife retornes that he could not execute the writ for Resistance, hee shall be amerced.

So if (vpon a Repleuy) hee retornes that the cattell be in a fort, or Castle, so as he cannot deliuer them.

So if he retornes small, or no Issues
vpon.

vpon the defendants.

So if he retornes not illues vpon Iurors according to the Statutes.

So for not retorning Pledges.

The high Sherife shall also bee amerced or punished for the default of his Vnderherife, in making insufficient retornes, &c.

He shall also be punished for the default of his Baylife or other Officer.

But for the defaults of Baylifes of Liberties, the Sherifes (at this day) shall not be punished for any insufficient or false retornes of writs made by such baylifes of Liberties, but the amerciaments shall be set vpon the Baylifes heads.

An *Exigent* which was deliuered to the Sherife of Record, was imbeafeled, and the cobby thereof was retorned by the Sherife, and he was amerced for the retorne of the cobby at 30. l. and for the imbeaseling thereof at 20. l.

The Sherife for making a false retorne of an *Exigent* was amerced at 50. marks.

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CHAP. 38.

*Where the Sherife maketh no
Retorne.*

IF a *Capias* or other meane Proces, be executed and not retorned, the arrest is tortious, and the Officer is punishable.

So if the writ be misretorned; as if the Baylife arresteth a man by vertue of a warrant from the Sherife, and after the Sherife retorneth, *Non est inuentus.*

In case of *Rediffesin* or Vtlary, if the Sherife shall not retorne his writ, the Sherife shall bee amerced for such his fauxity and concealment.

For note that vntill the writ bee retorned, the suit is not said to be depending nor the Kings courtscan not hold plea of the matter; and therefore vpon the originall writ retorned *Tarde*, an *Alias* & *Pluries* shall goe out of that Court where the originall is retorned,
Teste

Teste the Chiefe Iustice, for that by the Retorne the Court is possessed of the suit; but if no retorne be made, the *Alias* and *Pluries* shall goe out of the Chancery, from whence the first originall came.

And the third writ not being retorneed by the Sherife (*scz*, the *Pluries*,) it is a contempt, whereupon an attachment lyeth against the Sherife,

Vpon a second deliuerance, if the Sherife shall deliuer the castell to the Plaintife, and shal not retorne the writ, the defendant shall haue his remedy against the Sherife,

And yet in some case the Sherifes retorne is not so needfull.

And therefore in all writs of Execution (except an *Elegit*) as vpon a *Capias ad satisfaciendum, fieri facias, habere facias seisinam, vel possessionem, Liberate, &c.* if the execution be duly done, although the writ be neuer retorneed it is no great matter, if so be that the Plaintife hath his demand. *scz* his money payd him by the Sherife, or his seisin or possession of his lands,

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&c. deliuered to him by the Sherife.

Also where no Enquest is to be taken, but onely land, *scz.* (seisin or possession of land) to bee deliuered, or goods to be sold, &c. which are but matters in fact, these are good although the Writ be not retorned.

But in case of an *Elegit*, &c. where the Extent (or preising or valuation) is to be made by an Enquest, and not by the Sherife alone, that ought to bee retorned by the Sherife.

Vpon a *Fieri facias*, if the Sherife leuyeth the debt, but neither retorneth the writ, nor payeth the money to the Plaintife, the Sherife is subiect to the action as well of the Plaintife, as of the defendant, besides he shall be amerced; and yet the leuying of the debt was lawfull, and the sale of the goods (by the Sherife) by force of the *Fieri facias* is good, though the writ bee not retorned.

Also there bee some other Writs which need not to be retorned; as the writ *de Returno Habendo* is not retornable.

Vpon

Vpon a recouery in a *Quare impedit*, the writs awarded to the Bishop, to remooue the *Incumbent*, or to admit the Clerke of the Plaintife, are not retornable.

And so in other cases, except the writ requireth it, the Sherife needeth not to make retorne thereof.

Note that if the writ bee retornable, the day of the retorne is also appointed in the writ.

Also all writs of *Iusticies* (or Viscountiel writs) are not retornable. *Hic cap. 113.*

In some cases also, although the Sherife executeth not the writ, but executeth it by his retorne, it is good. As.

In a Repleuin, the Sherife retorneth that the defendant claimeth propertie. *Hic cap. 70.*

In a *Natino habendo*, the Sherife retorneth that the villain alledgeth himselfe to be a free-man. *Hic cap. 67.*

So where the Sherifs of London retorne their custome.

Or the Sherife of any County Pallatine, retorne that they haue a Countie

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Pallatine within themselues.

So where the Sherife (of any County) returneth *Mandani balliuo Libertatis qui nullum dedit responsum, &c.* *Hic cap. 39.*

So where the Sherife retorneth that the Plaintife *non inuenit Plegios de prosequendo, hic cap. 45.*

So where the Sherife retorneth *Tarde, ibid.*

CHAP. 39.

Retorne de Mandani balliuo Libertatis.

AS the Sherife is the immediate Officer of the King and his Courts, to execute all Writs and Proces, so to him all their writs shall be directed, although it be of a matter) *scz.* of land or other thing in suite, or a thing done) within a Liberty or Franchise; in which cases the Shdrife must write and send his Precept to the Baylife of the Libertie, who must serue and execute the same.

same, and must make answer (or retorne) thereof to the Sherife; but the Sherife himselfe must make the Retorne of the writ into the Court,

And yet in a writ of *Kediffesin*, and in a Writ to enquire of wast, and such other writs wherein the Sherife is made a Judge of the cause, there the Sherife must enter the Franchise, and execute such writs himselfe, and may neither write to the baylife of the Libertie to execute it, nor may retorne *Mandam balliuo, &c.*

And so it is in other cases, as where the King is a party; or the baylife of the Liberty a party; or vpon the default of the baylife of the Liberty, &c. See *hic cap. 40.*

For the formes of the Sherifes Precepts or Warrants to bee made to the baylife of the Liberty, they are to bee made like to those which are made by the Sherife to his other baylives (which see *hic cap. 23.*) Sauing that where those are directed *Balliuo Hundred de, &c.* theie are to be directed *balliuo Libertatis de, &c.*

Now

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Now after that the Baylife of the Liberty hath retorneed his answer to the Sherife, then the Sherife must make the retorne of the writ, and of the baylifes answer, in these (or the like) words, *Qui quidem balliuus mihi sic respondit, &c.* (according to the Baylifes answer) But the Sherife may make no other retorne, but according to that which the Baylife of the Libertie shall certifie him.

And yet if the baylife of the Libertie shall make an insufficient answer, or shall make no answer to the Sherife, then the Sherife may make his retorne of the writ in this manner, *scz. Mandau balliuo Libertatis de, &c. Qui mihi nullum dedit responsum, &c.*

For the manner and forme of such retornes (*de Mandau balliuo Libertatis, &c.*) You must obserue these things (or rules) in the Sherifes retorne.

1. First the Sherife shall doe well to shew cause (in such his retorne) *scz. Eo quod præq' terr' & tenemēs sunt infra Libertatem de, &c.*

2. Or

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2. Or else the Retorne must haue these words (or the like) *Qui habet retorna omnium bruium, & executionem eorundem: infra libertatem predictam.*

3. Hee must shew in his Retorne whose the Liberty is, or who is Lord of the Franchise or Libertie.

4. He must shew or set downe in his retorne, the names of the baylife of the Liberty, *scz.* his Christian name or surname. *Hic cap. 53.*

5. Also where the Sherife retorneth *Mandani balliuo libertatis, &c.* he must retorne further, *Eo quod nihil habet in balliuam meam.*

6. Also there must be such a Liberty within that County, for if the Sherife shall retorne *Mandani balliuo Libertatis* where there is no liberty, he shall be grieuously punished.

Againe the Liberty must haue retorne of writs *Reuera sub pœna ut supra.*

And therefore it is needfull for the Sherife to haue a note (out of the treasury of the Eschequer) of all the Liberties

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ties within his County, which haue retorne of writs.

If the Baylife of the Liberty (vpon the Sherifes precept) shall not execute the writ, That being retorned by the Sherife, then there shall goe out a *non omittas propter libertatem*, commanding the Sherife to execute the same himselfe, and there the Sherife is to enter the Franchise himselfe, and withall is to warnethe baylife of the Liberty to appeare and answer his default before the Iustices at the day contained in the writ.

There should or ought to be indentures made betweene the Sherife, and the baylife of the Liberty of euery retorne which such baylife shall make. And this is to the intent that the Sherife should not change the retorne made by such baylife, which if the Sherife doe, he is punishable.

But the Sherife cannot serue or execute a writ in part, and write to the baylife of a Liberty to execute the other part; but one of them must execute the whole (in most cases) because the

the writ is entier, &c.

As vpon a *venire fac' Inrator'* : or a *Distring' Inrator'* : or a *Habeas corpora Inrator* : the Sherife cannot retorne part of the Iury , and the Baylife of the Liberty the other part.

And yet vpon a *Capias* in debt, against three the Sherife may retorne that he hath taken two of them , and that he hath written to the Baylife of the Libertie, &c. to take the other defendant.

And if the land in question doe lie part within a Franchise , and part in Guildable, there the Iury shall be retorned part by the Sherife , and part by the baylife of the Franchise.

If the land in demand doe lye in 2. Franchises, the Sherife must make his precept to each baylife.

Note that such part of the County as is contributory among themselves to pay Common charges, is called the Guildable; and if there be any speciall Libertie, that is called the Franchise.

Also wheresoeuer the Sherife hath serued

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serued the first writ , he cannot after write to the Baylife of the Franchise, Nor returne *Mandani balliuo libertatis* , &c. except it be in some speciall cases ; or that the Sherife in his return sheweth and certifieth some speciall cause thereof.

And herein this difference may be taken, *scz.* betweene a thing permanent, and a thing remouable.

For of a thing permanent , as in a *Precipe* of land, if the Sherife serueth the first proces, he ought not after to make his precept to the baylife of the Liberty, for by his seruing of the first proces he hath affirmed the land to be within his iurisdiction,

But of things remouable , as in debt, or trespass, &c. the Sherife may serue the proces at the first, and when it cometh to the *Capias*, the Sherife may make his precept to the baylife of the Liberty to take the body, for that the body is remouable, &c.

Also the *venire fac' Jurator'*, may be serued by the Sherif, and vpon the *habeas corpora Jurator'* he may write to
the

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the baylife of the Franchise, &c. *Et e
Conuerso.*

Also in a *Præcipe quod reddat* of land within a Franchise, the Sherife must first take of the Plaintife Pledges *de prosequendo*, and then hee shall make his *Mandavit* to the Baylife of the Franchise, &c. who is to execute the rest.

And yet in an Assise brought of land within a Franchise, the Sherife may retorne the whole Pannell, and it shall be good.

Yea in all cases, wheresoeuer the retorne or execution of the writ pertaineth to the baylife of a Liberty although the Sherife may more safely enter the Liberty, and execute the writ, *cum warrantum habueris*, *scz.* vpon a *Non omittas*, yet if the Sherife doth it himselfe without a *Non omittas*, it is good: But the Lord of the liberty may haue his action against the Sherife for the same.

The Sherife retorneth *Mandam balliuo Libertatis*, &c. *qui nullum dedis responsum*, or retornes that the bay-

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baylife will not make deliuerance,
&c. vpon a *Repleuin Alias* or *Pluries*;
these are no good retornes, for the she-
rife in such cases ought himselfe to
haue entred the Franchise, and made
deliuerance; yet it seemeth safest for
the Sherife, to haue a writ with a *Non
omittas*, &c. before hee enter the Fran-
chise, in these cases and the like.

CHAP. 40.

*Where the Sherife may enter
the Franchise, without a
Non Omittas.*

1. **V**Wherefoeuer the king is
a party, no Franchise
shall be allowed; and therefore in eue-
ry writ for the king, or where the
king is any wayes a party, the Sherife
himselfe (or his Officer) are to enter
the Franchise, and to execute the pro-
ces; for none are to serue the Kings
Proces but his owne ministers.
2. Wherefoeuer the Sherife is a
Iudge

Judge of the cause, he is to enter the Franchise, and to execute the writ himselfe. *Hi cap. 39.*

3 Where the Baylife of the Libertie is partie to the suit, he shal not make the Pannell, or returne the Iurie, but the Sherife ought to enter the Libertie, and to pannel the array. And so where a *Capias* or *Fieri facias* commeth to the Sherife against the Baylife, the Sherife must enter the Libertie, & execute the Writ.

4 So where beasts are taken within a Libertie, and wrongfully withholden, and the Baylife of the Liberty will not deliuer them vpon the Sherifs Warrant, there vpon complaint the Sherife ought presently to enter the Franchise, and to make deliuerance, &c.

5 So in a Plea of *Withernam* in the Countie, by plaint before the Sherife, if the Baylife of the Franchise wil doe nothing vpon the Sherifes Precept, the Sherife may enter the Franchise without a *Non omittas*; *Et hoc Vicecomiti ex necessitate conceditur.*

L

Tamen

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Tamen quare these two last cases ; for by some opinions the Sherife may not there safely enter without a *Non omittas*.

6. Also vpon an Extent of a Statute Merchant, it seemeth the Sherife is to enter the Franchise, and to execute the writ himselfe, and may not retorne *Mandam balliuo Libertatis*, &c.

Baylife of Fee. Where there is a Baylife of Fee, the Sherife shall send his precept to him, as to the baylife of Guildable ; and shall not retorne *Mandam balliuo*, &c. but the Sherife shall make the retorne of the writ, as if himselfe had serued it.

CHAP. 41.

ALL Procelle directed to the Sherife ought to bee returned into such Court, out of which such Procelle shall be awarded.

And the Sherife (as also the baylives of Liberties) ought to set the Names, *scz.* both their Christian name & Surname)

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name) to euery Retorne by them made, so that the Court may know of whom they tooke such Retornes, and for default thereof they shall be grievously amerced; yea without the Sherifes name, the retorne is void.

Vpon the retorne of euery writ, the Sherife besides his setting his name thereto, must also subscribe or adde this word, *vicecomes*.

And these Retornes made by the Sherife, together with the Name of the Sherife, and of his Office, &c. are to be indorced on the backe of the writ: And yet if it be made or done on the inner side of the writ, it is good.

CHAP. 42.

Auerment against the Sherifs

Retorne.

FORasmuch as the Sherife is an Officer deputed by the Law, to the King and his Courts, a man shall not be allowed to Auerre directly against

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the Retorne of the Sherife, except it be in some speciall cases : and the reason is for that where Iustice is to be administered and executed, the King and such as are his Iudges, and vnder him are to administer Iustice, must necessarily put a trust and confidence in some person, and if every man might auerre against that which the Sherife shall doe, then Iustice should neuer bee executed, but should euer or oftentimes be delayed, &c. And yet on the contrary, for that Sherifes and their Officers haue oftentimes beene found faulty of their parts, in making false Retornes to the Kings writs, &c. the which may arise in part by corruption, and in part through their negligence and remissnesse; and also for that such false retornes were and are oftentimes very mischieuous to the Kings subiects, therefore the Statutes and Lawes of this Realm haue in some cases allowed men to auerre against the Sherifes Retorne.

See the Statutes of Westm. 2. cap. 39. & 1. E. 3. cap. 5.

And

And therefore the Plaintife may auerre that the Sherife might haue returned greater issues vpon the defendant.

A man may auerre (in diuers cases) him to be aliue, whom the Sherif hath returned *Mortuus*.

Vpon a *Rescons* returned, the party may trauerse the Retorne.

Vtlary returned in case of Felonie, the party may auerre that hee yeelded his body at the 5. County.

Vpon the *Exigent* the Sherife returned the party but 4. *Exactus*, the other may auerre that he was vtlawed.

But where the Sherife returneth one vtlawed, the party cannot auerre that that he was proclaymed but at 3. or 4. Counties.

Also in cases where the Sherife is a Iudge, there the partie may not auerre against the Sherifes retorne, as in writs of *Redisseisin*, or to enquire of wast. &c.

But otherwise where a mans inheritance, or the effect of his sute shall bee lost, or his person charged, as also in

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fauour of life, the Sherifes retorne is trauerſeable.

In other caſes if the Sherife maketh a falſe retorne, and that the party cannot trauerſe it, yet he may haue his action againſt the Sherife, &c.

CHAP. 43.

The Sherifes Retorne in ſome caſes ſhall be of the force of an Indictment.

ALthough by the Statutes made Anno 9. H. 3. cap. 29. and 25. E. 3. cap. 4. No man ſhall bee imprifoned nor condemned by ſuggeſtion, &c. without lawfull preſentment; and therefore the ſherifes retorne of an Eſcape or of an *Reſcons* made to him, of one arreſted by him for felony, albeit that ſuch his retorne be a matter of record, yet it is not ſufficient to force ſuch as made the Eſcape or the *Reſcons* to make answer thereto, except it were found by Enqueſt; Neuertheleſſe.

theleſſe if a *Reſcons* be retorne by the Sherife of one who was aireſted vpon a *Capias*, or for any other cauſe (except for felony,) ſuch retorne of the Sherife is in lieu of an Indictment; and vpon ſuch retorne the other ſhall bee put to anſwer the ſame, &c.

And therefore where the Sherife ſhall retorne ſuch a *Reſcons*, hee muſt in his retorne ſhew the certainty of the place, day and yeare, that the ſame *Reſcons* was made, and of the perſons.

But though the Retorne bee without any addition giuen to the perſons making the *Reſcons*, it is good enough.

CHAP. 44.

THe Retorne of the old Sherife ſhall not conclude the new Sherife.

And therefore where the old Sherife retorne a *Iury de Viſneto de D.* afterwards the new Sherife vpon the

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Distingas returned, *Quod non fuit tale visuetum de D. in dicto Comitatu*, and this retorne of the new Sherife was holden to be good.

Vpon a *Fieri facias*, the old Sherife returned *Quod cepit bona ad valentia. l. ad quam non inuenit emptores*, whereupon there went out to the new Sherife a *vendic. expon.* who returned that his Predecessor, *Non cepit bona, &c.* and it was holden to be good.

And yet if the old Sherife returneth a Iuror in issues, and the next Sherife at the *Distingas* returns the same Iuror *nihil*, the last Sherife shall be amended; for here hee cannot returne *nihil*, contrarie to the former returne of his predecessor, but must pursue the last returne. And therefore if any such Iuror hath sold his land, or that it bee recovered from him, or that the Iuror was seised in the right of his wife, who after died without issue by him, or if the Iuror had an estate conditional, and the condition performed, and a re-entrie made by the Feoffor, or the like; in these cases the Sherife ought to re-
turne.

turne the speciall matter, and to conclude, *Et sic mihi habes, &c.*

But if the old Sherife hath returned the Defendants sufficient, the next Sherife may returne him *Nihil*.

If the old Sherife hath returned a man sufficient, who is not, nor ever was sufficient, whereby the next Sherife is charged with issues, he shall have an Action of Deceit vpon the case, against his predecessor.

Note also, that a Sherife cannot summon or distreine himselfe, nor serue any other Procelse vpon himselfe: and therefore if any Procelse shall goe out against him, it may be thus returned,

Iustic' infra script' certifico, quod ego A.B. miles modo sum Vicec' Cō' C. I. de me ipsum summonere, or, distringere, &c. non possum prout interitus mihi precipitur.

And where the suit is against (A.B.) one of the Sherifes of a Citie, and another person, both the Sherifes of the Citie may make their returne after this manner: *scz.*

Sum-

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Summon' infranom' B.C. (the other person) Ioh. Den. Rich. Fen.

Es quoad summon' infranom' A. B. Iustic' infrascr' certificamus, quod idem A. B. & ego A. B. iam unus Vic' Cinit. Nor. sumus unus & idem, & non alius neque diuersus. Ideo ego prefatus A.B. & H.H. alter Vic. Cinitatis præd' meipsum secundum exigent. istius breuis summon' (vel Distr.) non possumus.

CHAP. 45.

The formes of Returnes of Writs.

Here I will set you down briefly the manner of returning such Writs as are most frequent and usuall; and for the residue, as also for the more full returne of these, I must refer you to my booke at large.

Note, that the forme of euerie originall writ is in this manner; *scz. Rex Viceco-*

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Vicecomiti, &c. salutem. Si A. (the Plaintiff) *fecerit te securum de clamore suo prosequendo, tunc, &c.* By which words the Sherife is commanded, that if the plaintiff shall finde to him pledges that hee will prosecute the Suit, that then the Sherife doe execute such Writ vpon the Tenant or Defendant, in such manner as in the writ is further mentioned: and thereupon the Sherife is to returne (vpon the plaintifes part) two common Pledges, *De Prosequendo.*

Plegij de Prof.

Also in euerie originall writ where Summons lieth, (or where the writ is *Summons.* *Summoneas per bonos Summonidores, &c.*) there the Sherife must first summon the Tenant or Defendant to appeare and answer, &c. And this must be done in the presence of two Summoners, the manner whereof see *hic antea cap. 31.*

After that the summons is made, then the Sherife must returne the writ in this manner following: *scz.*

If the Tenant or Defendant bee sufficient,

First,

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First, the Sherife must returne two common Pledges for the Plaintife, *De prosequendo*, and then he must returne the Tenant or Defendant summoned, or attached, as followeth :

Responsio A.B. A. mig. vicecom. comitat. infrascript.

Plegij de prosequendo.

*Ioh. Doe.
Rich. Roe.*

*Summonitores infranominati I.
S. the Defendant:*

*Symō Brown.
Kob. Flack.*

Attach.

And if the partie hath no land whereupon he may be summoned, as also in personall actions, or otherwise, (if the writ be *Pone per vad & saluos plegios, &c.*) then the Sherife must make his returne thus :

*Infranominati I.S.
(the Def.) attachatus est per
Pleg.*

*Symō Brown.
Kober. Flack.*

Or if the Sherif cannot find the partie, then thus:

Infra-

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*Infranominaus I. S. attachiatus est
per unam vaccam &c. praty x.x.s.*

But if this word *Attachiatus* bee
wanting in any Returne where the par-
tie is attached, it is no good return. *Hic*
cap. 52.

Also such or the like returne may
be made for the summoning or att-
aching of the Tenant or Defendant, in
all reall actions, if the Tenant or Def.
be sufficient.

But if the Defendant, &c. be insuffi- *Nihil.*
cient, then the Sherife may returne the
Defendant or Tenant *nihil*, after one
of these manners:

Responsio A.B. Ar. Vie' Com' infra-
script.

Plegij de Prose- { *Ioh. Doe.*
quendo. { *Rich. Roe.*

*Infranominaus I. S. nihil habet in
ballina mea per quod (or unde) summo-*
niri potest.

And this returne of *Nihil*, may bee
made in any Reall action; or in acti-
ons of Annuity, Covenant, Debt, or
other writ where Summons lyeth: and
yet if that there be no land where hee
may

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may be summoned, *Quere* if this be a good retorne without saying, *Nihil habet, &c. unde summoniri potest*, and further, *Nec est inuentus in eadem*, for that the party may bee summoned by his person.

If it be in trespasse, the retorne may be thus.

Infranom' I.S. Nihil habet in ballina mea per quod Attachari potest.

But the Sherife may not retorne, *quod Nihil habet, &c. prout ei aliquo modo constare poterit.*

In a Debt or Trespasse, &c. *Nihil habet* is a good retorne without saying, *Nec habuit post receptionem brevis*, or *Nec habuit die receptionis brevis*; for it shall be intended.

Vpon a *Distringas*, The retorne may be thus:

Infranomin' I.S. Nihil habet in terris, tenementis, & heredit' infra script' per quod ipsum Distringere possim.

Or thus, *Nihil habet per quod potest Distring'.*

Vpon...

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Vpon a *Fieri Facias*, The retorne may be thus.

Infranomin' I. S. Miles, nulla habet bona seu catalla, terras aut tementa in ballina mea, unde denarios infra specific' fieri facere possum, prout interius mihi precipitur.

Vpon a *Scire facias*, The retorne may be thus:

Infranominat' I. S. Nihil habet in ballina mea p quod ei Scire facere possum, Neque est inuentus in eadem.

A. B. Ar. Vicecom.

Now if there be two defendants or tenants, then the retorne may be thus.

Infranominat. I. S. & I. D. Nihil habent, nec eorum alter aliquid habet, in ballina mea, per quod summoniri, or Attachiari, &c. possunt.

And if there be more then two defendants, &c, you must then name but one of them, and say further, *Et ceteri defend.*

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defend. infranominati Nihil habent; nec eorum alter aliquid habet in ballivamen, &c. ut supra.

And yet these two last returns of *Nihil habent*, where there be two or more defendants, are good enough without saying, *Nec eorum alter*, &c.

Or if the Sherife will not make Execution of the writ, but will delay the same, Then they will doe it after one of these two sorts following.

Responsio A. B. vicecom. Com. infrascript.

1. *Infranomin. I. S. non inuenit mihi Plegios de proseguendo, Ideo nihil feci, &c. Or,*

2. *Istud breue mihi deliberat fuit adeorare, quod illud exequi non potui propter breuitatem temporis.*

And note that in every writ which hath therein this clause, *Si A. fecerit se securum de clamore suo proseguendo, tunc, &c.* There if the Plaintife shall not finde sureties to the Sherife, that he will prosecute the suite, the Sherife for default of the Plaintife therein,
needs

needs not to execute the writ, but may retorne as aforesaid, *Non inuenit mihi Plegiat, &c.*

But let the Sherife beware, that these or other his retornes bee true; for as they are dilatory, and mischieuous to the Plaintife, so are they dangerous to the Sherife, being not onely a breach of his oath, but also he is subiect to be amerced by the Court, and besides to be sued by the party grieved for such his false retorne.

Now concerning Pledges (or Sureties) which are to be found, either by the Plaintife to prosecute his suite; or by the defendant (or tenant) to appeare and answer, &c. you must obserue these rules following.

1. First, the Sherife ought to retorne none for Pledges, but onely such as consent thereto.

2. Such Pledges should bee of persons which be able and sufficient, as well in their Estate, as in Law.

And therefore if they be poore, in estate, it is at the Sherifes perill.

So if they be persons within age, or

M

women

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women Court, or persons outlawed;
&c.

3. Also there should be at least two
Pledges.

4. But at this day, for the Pledges
de prosequendo, it is but matter of
forme, and the vse is to retorne Com-
mon Pledges in most cases, *scz. Ioh.*
Doo. Rich Roo.

And yet in a Repleuin, before that
the Sherife (or his Officers) shall make
any deliuerance of any distresse or cat-
tell taken and deteyned, they are to
take sufficient Pledges or Sureties of
the owner of the cattell, &c. *Tam de*
prosequendo, quam de Returmo habendo,
&c.

Or else the Sherife may be charged
for the price of the cattell, &c. if Re-
torne be awarded. *Plus hic postea cap.*

114.

5. And as for the Pledges which
the defendant findeth (or is attached
by) to appeare and answer, they are
not to be bound in any summe, nor
shall enter any bond to the Sherife for
the appearance, but onely to give their
words

words for the parties appearance; and if the party summoned, or attached by Pledges to come and answer, &c. doth not appeare, but maketh default, his Pledges shall be amerced to the King by the Court.

6. Note further, that some persons are to finde no Pledges *de prosequendo*.

First the King, nor Queene in regard of their Dignity and Prerogative are to finde none.

Neither shall an infant finde any Pledges.

A poore man in stead of Surors shall onely give his Payth to prosecute his suite; and the forme of the writ for him is accordingly.

7. Again these Pledges *de prosequendo* may be found, either to or before the Sherife, or in the Chancery where the writ is sued out; or in a Court where the writ is returned; or at the Assises.

8. Also these Pledges, nor Mainpernors or Manucaptors, neede not to have any Addition, but their Names of Baptisme and Surname sufficeth to

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be set downe in the Sherifes retorne.

9. Also in some writs the Plaintife shall finde no Pledges *de prosequendo*, as in a

Per qua Servitia.

Quid Iuris Clamat.

Scire facias.

10. Nor where the Sherife retourneth any for Pledges, they shall not be receiued to say they were not Pledges, &c. contrary to the Sherifes retorne; But yet if they be endammaged thereby, they may haue their action against the Sherife for the same, and shall recouer as much as they shall bee indammaged.

In these writs following (amongst other) Plegij de prosequendo, must be Retorned.

Accompt.

Annuity.

Assise de nouel disseisin.

Assise de Nusans.

Attceynt.

Ayel.

Besayell.

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Befayell.

Cessavit.

Contra formam Collat.

Contributione.

Conspiracy.

Couenant.

Cosinage.

Cui in vita.

Curia claudenda.

Customes & services.

Dare in presentment.

Debt.

Detinue.

Disceit.

Dower unde Nihil habet.

Dum fuit infra atatem.

Dum non fuit Compos mentis.

Eiectione firma.

Entree in le quibus.

Entree ad term. qui preterijt.

Entree in casu prouiso.

Entree in consimili casu.

Entree ad Communem Legem.

Escheate.

Eiectione custodia.

Entrusion de Gard.

Falso iudicio.

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Formedon.

Forcible Entree.

Forfeit. de Mariage.

Homine Replegiando.

Intrusion.

Iuris utrum.

Mefne.

Moderata misericordia.

Monstrauerunt.

Mortdaunceſter.

Nuper obiit.

Nufans.

Particione facienda.

Parco fracto.

Pone.

Quare impedit.

Quare incumbravit.

Quare eiecit infra Terminum.

Quod permittat.

Quo iure.

Rationabili parte honorum.

Reparationis facienda.

Refrou.

Setta ad Molendinum.

Second Delinenance.

Sine affenſu Capituli.

Trefpaſſe.

Tref-

Trespasse sur le Case.

Valere maritagij.

Waste,

Warrantia Charta.

CHAP. 46.

The Summons of the Assises.

Vpon this Precept (from the Judges of Assise and Gaole deliuery) the Sherife must make his warrant to euery baylife of Liberties and Hundreds within his Countie : which warrants must containe the whole substance of his Precept : more particularly ; The Sherife by his said warrants must command euery balife of euery Libertie and Hundred.

1. To warne 24. Iurors of their Liberty, or Hundred ; all which seuerall Pannels must be annexed to the returns of the Precept.

2. To warne for the great inquest, such whose names the Sherife nominateth in his said warrant.

M 4

3. To

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3. To warne the Iury of life and death, such as the Sherife or baylife shall thinke meet within their Hundred.

4. To proclaime within every Hundred the day and place of the Assises; and that all persons that haue any thing against any prisoner be there to prosecute, &c.

5. To giue speciall warning to all Iustices of Peace, and Coroners, &c. within their Hundred, to be their present.

6. To arrest, &c. all persons formerly indited, &c. to appeare there.

7. And by his said warrant, the Sherife must also command every bailife to be and attend there themselves.

Or els to the back of this warrant, the Sherife may file a schedule, setting downe therein the Names of such as shall be warned for the great Enquest, and for the Iury of life and death; and such other persons as are to be warned thither.

The Sherife also must make and deliuer (to the Iudge) a Kalender of the names

names of all the Iustices of Peace, Coroners, Stewards, and Baylifes of Liberties, Baylifes of Hundreds, and of all the prisoners in the Gaole, See *Hic cap. 98.*

And he must haue all his prisoners there.

Also the Sherife himselſe ſhal do well to choſe and name the great Enqueſt; and to keepe a riote of the names of ſuch as for that ſeruiſe he would haue warned by his baylifes; and to choſe ſome out of euery Hundred within his Country.

CHAP. 47.

The ſummons of the ſeſſions of the Peace.

VPon this (writ or) Precept, the Sherife alſo muſt make out his warrants to his baylifes of Hundreds, commanding euery of them to appeare at the Seſſions.

And to warne all High and pettie Con-

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Constables within their particular Hundreds to be there.

And also to warne 24. Jurors in e-
uery Hundred to appeare there.

And to proclaime within euery
Hundred the day and place of the said
Sessions, and that all such as will com-
plaine of any Artificers, laborers or
seruants in husbandry for taking exces-
sive wages against the Statute, be there
also to prosecute, &c.

And to warne all Coroners, and
Stewards, and Baylifes of Liberties
within his County, to bee then and
there to doe that which belongeth to
the particular Offices or places.

And to warne 24. Jurors for the
great Enquest and body of the Coun-
ty (as wel within Liberties as without)
to be and appeare there.

Now for the great Enquests (as well
for the Assises or generall Gaole deli-
uery, as for the Sessions of the Peace) it is
moete that there be returned out of e-
uery Hundred three or foure: and that
the names of such as be of one and the
same Hundred, be set together, and the

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the name of the Hundred to bee written in the margent of the Returne, against the names of the Hundredors.

And if the Sherife shall returne any such Jurours, without summoning or warning them by his Baylife, the Sherife is fineable. *Hic cap. 85.*

CHAP. 48.

Accedas ad Curiam.

VPon this Writ, the Sherife (taking with him foure other discreet, lawfull, and sufficient men of that Countie) is to repaire to the lords Court, or Hundred Court, in the writ mentioned,

2 He is there in full Court to record the Plee, in the presence of those foure men, and of the Suiters of the same Court.

3 The Record so made must bee annexed as a Schedule to the backe of the Writ.

4 He

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4 He is to returne that Record (with the writ) before the Iustices (vnder his owne Seale, and the Seales of foure suitors of that Court which were present) at the day limited in the writ.

5 And hee is to warne the parties, Plaintife and Defendant) that they bee before the Iustices at the day prefixed.

And if no Court haue beene kept there betweene the day of the receit of this writ, and the day of the Returne thereof, the Sherife may make his Returne accordingly; but the Sherife ought first to require the Lord to keep his said Court, and then if the Lord refuseth, the Sherife is also to returne the Lords refusall.

So if the Lord, &c. in his Court shall refuse to shew the Sherife the plea, or his booke wherein the plea is contained, yet the Sherif in the Court ought to shew and read, or declare the contents of this writ, and after to returne the Lords said refusall. The Returne:

Virtute istius breuis mihi directi in forma infrascript; accessi ad Curiam infrascript, & in plena Curia illa
recor-

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recordari feci loquelam infrascripta. Que quidem loquela patet in quadam scheda huic breui annexa & recordum illud habeo, &c. (as in a Recordare facias loquela. Hic postea.

A.B. Armig' Vic'.

The stile of the Court.

Ad Curia Baron' Egidij Alington Militis, ibidem tenet' (tali die & anno) Horshearth.
reciting also the stile of the King.

R.B. quaritur versus I.S. de placito Quarela captionis & iniuste detentionis anteriorum suorum.

Note, that nothing but the plaint shall be remooned here.

CHAP. 49.

Admeasurement of Dower.

IF this Writ be Viscountiel, and sued in the Countie Court before the Sherife, then the Sherife is Iudge, and is by vertue of this writ to admeasure all the lands which the Woman hath in Dower within the same Countie: So that

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that if there be in her hands any other plus, it may bee restored to the heyre, &c.

But if this writ bee remooued out of the Countie Court into the Common Banke, then the Sherife cannot make the admeasurement, but first the Sherife ought to goe to the lands, & then by a Iurie to diuide the lands, &c. into three parts, and to preise the same at a yearely value, and then to retaine two parts by it selfe, and the third part by it selfe, and to retorne also their yearely value, and so to leaue the admeasurement to the Court: which retorne must be vnder his scale and the scales of the Iurors.

And in this writ (where the admeasurement is to bee by the Iustices or Court) when the suit is come to the grand distrettes before the writ bee returned, dayes are giuen, so that there may bee two Countie Courts holden, and in either of the said Counties the Sherife is to make Proclamation, that the defendanes come in and appeare in court (at the day contained in the writ)

to

to shew cause why admeasurement should not be made; and the Sherife is to returne the Proclamations accordingly.

But *quare* notwithstanding the Defendants default of appearance, the Sherife is not to make the admeasurement, but is to leave that to the justices or Court, *vi supra*.

The Sherife may returne the defendant *nihil*, in this writ of admeasurement of Dower.

If he returne, That the wife hath more than shee ought to have, by so much *per annum*, this is no good returne, for the Court is to iudge of the value.

Admeasurement de pasture.

Also if this writ bee remooved out of the Countie court, into the Common Banke, and that the parties appeare there, and agree that the admeasurement shall be made, then there shall goe out a writ to the Sherife, commanding him to make admeasurement, and then

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then to make the admeasurement the Sherife must goe in his proper person, to the Common or pasture to bee admeasured, and there by a Iury of twelve men must admeasure the same; and he must returne the same into the Court by Indenture, vnder his own seale, and the seales of the Iurors.

Also if this writ be remooued into the Common Banke, when the suit is come to the grand distresse before the writ be returned, the Sherife is to make Proclamation in two Countie courts, that the Defendant come in & appeare in Court (at the day contained in the writ) to answer the plaintife, and to shew cause why admeasurement should not be made: and the Sherife is to returne, that he hath made the Proclamations accordingly; and if the Defendant cometh not vpon the Proclamations; then admeasurement shall be made vpon his default.

But here also notwithstanding the default of appearance of the Defendant, the Sherife is not to make admeasurement without another writ to that
pur-

purpose, first to him directed,

But if this writ be Viscountiel, and sued in the Countie before the Sherife, he must first summon the parties, &c. who may plead there, and if the defendant grant that admeasurement shall be made, or pleads or shewes no cause to the contrarie, then the Sherife shall giue iudgement, and shall presently make admeasurement thereof; for the Sherife in such case is Iudge, &c.

In this writ all the Commoners shall be admeasured by the Sherife, as well those which did not surcharge the land, as they which did, and also the Plaintife himselfe, but the Lord shall not be admeasured.

In this writ of Admeasurement of Pasture, the Sherife may returne the defendant *nihil*, and it is good.

For the forme of the returne of Proclamation of Summons, see *hic cap.* 70.

Note that no man ought to put more Cartell vpon the Common, than serue to manure the land, and then hee can maintaine and keepe in winter vpon
N his

sunt, viz. I.S. per unum bouem pretij
5.s. & I.P. per unum equum pretij xx.s.
And yet it seemeth the Sherife is to re-
turne but fiveshillings and foure pence
price : *Quare* of the vse.

Residuum executionis istius breuis
patet in quodam pannello (or in quadam
schedula) huic breui annex'.

A.B. Armig' Vicecomes.

Nomina Recognitor' in Affis. Noue
disseis. inter M.C. querent', (seu peten-
tem) & T.C. tenentem.

*A.C. de S. Gener'. } Et sic ad nu- Le Panell.
D.E. de F. Teoman. } merum 24.*

Summonitor' Iurator' (sive Recogni-
tor') pradiCTOR', & eorum cuiuslibet per
se I.D. & T.P. (or more.)

Manuaptores summonitorum pra-
dict' & eorum utriusque I.W. & W.D.

And note, that the Sherife at the
first day shall onely returne *Manuap-*
tores summonitorum, and not *Iurator'*:
but after he shall returne *Manuaptores*
Iuratorum.

Note also, That if the Defendant be
not to be found, nor hath whereby to
be attached, the Sherife may summon

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and attach his Baylife in an Assise.

Also the defendants bayli e may be attached by Pledges, and the Sherife may make his retorne accordingly.

By the Statute of Westminster, 2. cap. 25, The disseisor shall be attached but by one Oxe, of 5.s.iii.j.d. price, or the value.

So then where the Tenant is sufficient and attached, the Sherife must retorne 24. Jurors or Recognitors.

He must retorne *Summonitores Juratorum, & Manucaptos Summonitorum.*

Or he may retorne *quod quilibet recognitorum præd per se separatim Attachiat. est, p Pleg' I.D. & R.R.* And further, *Exitus eorum cuiuslibet v s.*

And he must set downe the names of the Recognitors, (*scz.* the Pannell) and all the rest in a schedule, and annexe the same to the backe of the writ. &c.

But if the tenant or defetidant bee insufficient. then the Retorne must be after this manner:

Ple-

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Plegij de pro- } Ioh. Doo.
sequendo. } Rich Roo.

Infranominat. I. S. Nihil habet in ballina mea, p quod Attachiari potest, nec est inuentus in eadem.

Or rather thus: *Infranom. I. S. Nihil habet in ballina mea p quod Attachiari potest: nec habet ballinos nec ballinum: nec est inuentus in eadem.*

Also in an Assise the Sherife may retorne, *Mandavi ballino Libertatis, Qui nullum dedit responsum, &c.*

Annuity.

In a writ of Annuity the Sherife retorneth that the defendant; *Nihil habet in ballina mea per quod potest Summoniri*, this is a good retorne; (but *per quod potest Attachiari*, is not good. Annuity.

And the Sherife may summon the defendant (in his writ) by his person, if he hath no land where hee may be summoned.

So that the Sherife is here first to take Pledges of the Plaintife *de prosequendo*,

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quando, &c.

And then he is to summon the defendant to appear at the day before the Iustices, &c.

CHAP. 51.

Atteynt.

IN this writ the Sherifes retorne must be made after this manner.

Plegij de Pro- { *Ioh. Doo.*
sequendo. { *Rich. Roo.*

Summonitores {
infranomin' I. S. { *H. F.*
(the defendant. { *W. G.*

Residuum Executionis istius brevis patet in quodam Pannello (or quibusdam schedul' huic breui annex' (or 'con-sui'.)

A. B. armig' vic'.

Lē Pannell.

Nomina viginti & quatuor milit' inter R. S. quer. & I. S. defend'.

A. C. D. E. F. G. &c. ad numerum
24. (And these must be Knights, Esquires, or Gentlemen, hauing twenty
markes

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marks *per annum* (of freehold at the least.)

Quilib' Iur' præd' p se sepa } C. D.
ratim attach. est p Pleg'. } E. F.

Summonitor' Iur' præd' } I. D.
& eorum cuiuslibet. } R. S.

Manucaptor' Summon' & eorum utriusque.

I. P. R. C. F. D. R. G. *quare* if these Manucaptors be needfull.

Nomina Iurai' primæ Inquisit. in Le Pety Iury, breue huic Pannello annex. specificat.

A. S. C. D. H. F. & c. *ad numerum* xij.

Summonitor' (or Pleg') Iurator' primæ Inquisit. & eorum cuiuslibet. I. D. R. R.

Manucaptor' Summonitor' præd' & eorum utriusque, I. L. H. P. R. S. T. V. quare of thele.

Note that Manucaptors of the Summonors, and Pledges, must bee set downe vpon the retorne, in an attaint, as also in an assise, *quare*.

Also in an Attaint, the Sherife must retorne the names of all and euery of the twelue that were of the first Iury;

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and must distreine or summon them,
&c.

In an atteynt the Sherife (vpon the Distrelle) may not retorne that the defendant is dead.

In an attaynt the Sherife returned a certaine number of Iurors, but not to the full number, and auerred in his retorne that there were no more within his bayliwicke which might spend xx. *l. p. annum*, this seemeth good.

The Sherife may retorne the defendant *Nihil* in his writ, *Tamen quare*, where that the Sherife may summon the defendant *in terra petita*: But where the Atteynt is not of land, there *Nihil* may be returned vpon the defendant.

The Sherife is to summon the Tenant to be at the Recognition or triall,

The Grand Jury must be 24.

And these are to be warned the first day.

CHAP. 52.

Attachment.

Vpon an Attachment the Sherife may retorne that the defendant is attached by Pledges, or is attached by goods, *Vide hic cap 45.* the forme,

Where the Sherife attacheth one by Pledges, he must make his retorn thus.
Infranom' I. S. attachiatus est p Pleg'
S.B. & R.B.

But he may not retorne $\left\{ \begin{array}{l} \text{S. B.} \\ \text{Plegij infranom. I.S} \end{array} \right. \left\{ \begin{array}{l} \text{S. B.} \\ \text{R. B.} \end{array} \right.$

For such retorne were not good for want of the word *Attachiatus*,

Also if the Sherife shall but warne the tenant or defendant to appeare and answer, and shall retorne garnishment, it seemeth to be good.

If the defendant bee a beneficed Clerke, he must bee warned by his person, or by his land if he hath any Lay fee. *Hic cap. 36.*

Where the Sherife attacheth one by goods,

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goods, he must in his retorne set down the certainty of the goods in *Specie*, as also the value of the goods: as thus.

Infranom' I. S. attachiatus est per unum bouem (or equum, &c.) pretij 40.s.

And where the attachment is made of a living thing or things, the Retorn must be *pretij*, and so of a dead thing in the singular number.

But if it be of dead things in the plurall number, then it must be *ad valentiam*, and not *pretij*.

Note that wheresoeuer the writ is *Pone per vad' & saluos pleg*. There if the Sherife shall finde the party, hee may attach him by Pledges: and if he cannot finde the party, then he may attach him by his goods.

Nihil.

Also the Sherife (vpon an attachment) may retorne the defendant, *Nihil habet in ballina mea per quod attachiari potest*; but then he must retorne further, *Nec est inuentus in eadem*.

Attach-

Attachment sur Appell.

In an Appell of death or Robbery, *Non est inuentus* is a good retorne vpon the Attachment.

Also the Sherife may retorne that the Plaintife *non inuenit Plegios de Prosequendo, Ideo, &c.*

CHAP. 53.

Capias ad respondendum.

A *Capias, Alias, or Pluries* directed to the Sherife, may be retorted after diuers manners, and as the case shall require, viz.

1. First, if the Sherife will not, or cannot execute the writ, then thus.

Infranom' I.S. Non est inuentus in ballina mea.

Non est inuentus.

Or *Infranom' I.S. & E.D. non sunt inuenti, &c.*

Or *Infranom' I.S. & cateri defend. infranominati, non sunt inuenti in ballina*

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liua mea. Plus hic cap. 36.

2. And if the party bee taken or found, then thus.

capicorpus.

Virtute istius breuis mihi directi Capicorpus infranominati I. S. cuius corpus coram Iustic' infra script' ad diem & locum infra content' paratu habeo prout breue istud exigit. Or prout anterieus mihi precipitur.

But vpon such a Retorne the Sherife must withall haue the prisoner, so as he appeareth at the day of the Retorne, or else the Sherife shall be amerced.

And yet the Sherife may keepe the body after the day, for hee is chargeable to bring him in by his owne Retorne.

In prison.

Virtute istius breuis vobis (Iustic' infra script) certifico quod ante aduentum istius breuis, praeq I. S. captus fuit, &c. Et in tali prifona detentus,

Pro si sitione felonie.
Pro Condemnation' in placito Debiti, &c.
Per Capias ad Satisfaciend' in Debr.

Pro

Pur Arrerages de Accompt.
Virtute cuiusdam Quarele, &c. in
placito Debiti super demand de xx.l.
in tali Curia, ad festam I.G.&c.

But in these and the like cases, the Sherife in his Retorne must shew the true cause of his being in prison in particular; and nevertheless the Sherife must haue the body of the prisoner in Court, or so as he appeareth at the day of the Retorne.

Quod Commissus fuit per duos de
Concilio Regis, &c. but here the Sherife vpon the *Capias* must arrest the defendant, though hee had his body before; and must haue his body in Court at the day.

Quod ante istud breue mihi delibe- *Aliter.*
rat' fuit; or postquam istud breue (de
Capias) mihi deliberat' fuit, & ante *Supersedeas.*
Captionem infranom' prefati I. S. Idem
I. S. protulit mihi breue Domini Regis
de Supersedeas, quod huic breui est cō-
fut. Ideo ulterius ad executionem istius
breuis, Nihil per me actum est, these
are good Retornes.

Quod Cepi corpus, &c. qui postea
pro-

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protulit mihi breue Domini Regis de Superfedeas, &c. Ideo corpus suum coram, &c. habere non possum, this is not good.

Quod Capi corpus, &c. & ipsum ad gaolam, &c. Posteaque viz. tali die, &c. pretextu cuiusdam alterius breuis dicti Domini Regis mihi directi, cuius transcripti vobis mitto huic breui annexi predictum I.S. a prisona illa deliberrari feci, Et ideo corpus suum, &c. habere non possum.

These two last Retornes seeme not to be good, for after he was arrested or taken vpon the *Capias*, vpon the Retorne of the Sherife, he is to be deliuered by the Court.

Aliter,

Also vpon a *Capias*, the Sherife may make these Retornes :

Quod fugit ad Libertatem T.P. & ibid. morat', &c.

Mandani ballino Libertatis de, &c.
See *hic cap. 39. & infra.*

That a Rescous was made, &c. *Vide hic cap. 36.*

Languidus, &c.

That the party is dead, *quare de hoc.*

For

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For these 5. last Retornes. See *hic* cap. 36.

Quod breue tarde venit, &c. is no *Tarde*. good retorne vpon a *Capias*, but the Sherife shall be amerced therefore.

Virtute istius breuis mihi directi mandani I.D. ballino libertatis N. Episcopi E. qui habet retorn', &c. ad capiendum & arrestand' infranom' I. S. Qui quidem balliuus nullum mihi adhuc dedit responsum. *Mandani ballino.*

Or, *Qui mihi respondit quod infranom' I. S. non est inuentus in ballina sua.*

Or thus: *Qui mihi respondit quod cepit corpus Infranom' I. S. cuius quidem corpus ad diem & locum infracon' parat habet ad faciend' ea omnia quae istud breue in se exigit & requirit.*

Vpon a *Capias* against a Clerke, what retorne the Shrieve may make. *Clericus.* See *hic* cap. 36.

Where there bee two or diuers of name. See *hic* cap. 61. how to make the Retorne.

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CHAP. 54.

Capias ad satisfaciendum.

Cepi corpus.

Virtute istius brevis mihi directi
Cepi corpus infranominati I.S.
cuius corpus ad diem & locum infra-
contenta paratum habeo, &c.

A.B. Armig' vic'.

But where the Sherife retorneth *Cepi corpus* vpon a *Capias ad satisfac'*, he must be sure to haue the body in Court at the day, otherwise hee is chargeable for the whole debt.

If the Sherife hath taken the body in Execution, and after a writ of *Prærog. de habeas corpus* out of the Exchequer. (or any other like writ out of any other Court) shall come to the Sherife against the same prisoner, so that the Sherife is thereupon to bring in the body, he must in his Returne shew the cause of the imprisonment or deteynor

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teyner of the prisoner, that so he may beremanded, or els committed to some other prison vpon the execution, and so shall the Sherife be discharged.

And if a man be in prison for felony, and be atteinted, and after a *Capias ad satisfac'*, &c. commeth to the Sherife against the prisoner, he may retorne that the party is atteinted, and that therefore he cannot take him in Execution.

Or the Sherife, (if he will) may serue the execution, but then he must be sure to keepe the prisoner, notwithstanding any pardon of the felonie.

Vpon a *Capias ad Satisfac'*, *Non est inuentus* is a good retorne.

Note that vpon the *Capias ad Satisfac'*, if the execution be duely done by the Sherife, and that the Plaintife hath his demand, the Sherife needs not to retorne this writ.

Plus hic cap. 29.

O

Capias

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Capias vtlagatum.

Cepi corpus.

Virtute, &c. Cepi corpus I. S. infra-
nomⁱ cuius corpus coram Iusticⁱ infra-
scriptⁱ ad diem & locum infracontenta
paratⁱ habeo prout interius mihi preci-
pitur.

Residuum executⁱ istius brevis patet
in quadam Inquisitione huic breui an-
nexⁱ. II.

Inquisitio Indentⁱ capta apud, &c.
Qui dicun^t super Sacramentⁱ suum
Quod I. S. in dicto breue nominat.
&c.

Non est inuen-
tus.

Also vpon a Capias vtlag. Non est
inuentus isa good returne. Infranominⁱ
I. S. Non est inuentus in ballina mea.

Resid^u executⁱ istius brevis patet in
quadam Inquis. &c.

For note that vpon a *Capias vtlagatⁱ*
whether the Sherife retornech a *Capi*
corpus, or a *Non est inuentus*, he must
also enquire by a Iurie of twelue men,
what lands or goods the party vtlawed
had within the Countie the day of the
vtlary, or at any time after.

And

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And the Sherife must retorne the Inquisition thereof made, vnder his owne scale, and the scales of the Jurors.

But the Sherife may not arrest, or take the body of one that is vtlawed in any personall action, without the writ of *Capias vtlag'* first deliuered to him (except where the party is vtlawed for felony or Treason.)

Vpon the *Capias vtlagatum*, if the party be found, the Sherife shall take and put him in prison without bayle.

And vpon the *Capias vtlagat'*, the high Sherife shall do well to take bond of his Vndersherife, or Baylifes, with condition to bring the defendant to prison if he be arrested or taken: For that diuers Vndersherifes and Baylifes if they haue taken a man vpon a *Capias vtlagat'*, they first take money of the Plaintife to take the defendant: and after the defendant being taken, they take money of him to let him goe againe, they pretending that it is to reuerse the vtlary, which they haue nothing to doe withall, but are onely to

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imprison him.

Also vpon the *Capias velagar* the Sherife may seise and keepe his goods, &c. See thereof *Plus hic cap. 15.*

The Sherife may retorne vtlary vpon an Enfant, if he be aboute the age of 14. yeares. And being taken, the Sherife may imprison him, and may seize his goods.

CHAP. 55.

Capias ad valentiam.

VPon this writ the Sherife is to summon the defendant (*scz.* the vouchee) to be before the Iustices at the day mentioned in the writ, &c. And he is to retorne the names of the Summoners with the writ.

The Sherife also is (vpon this writ) to seise the lands of the vouchee (*scz.* to such a proportion as the writ mentioneth) into the Kings hands, by the view and valuation of neighbours or other lawfull men of that County, and

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is to retorn the certeinty of those lands and the day of such his seisure, together with the names of those veiors, and of the Summoners vnder his scale.

And this seisure must bee of such lands and tenements of the vouchee, as he hath in fee simple, by purchase, discount, or otherwise.

Vpon this writ against diuers, the Sherife returned that one of them had nothing, &c. And that of the other hee had taken according to the proportion; but for that the Sherife cannot apportion without a warrant he was amerced.

Couenant.

In breue de Couenant, whether it be *Couenant* to leuy a Fyne, or otherwise, the Sherife may make his Retorne thus.

<i>Plegij de pre-</i>	{	<i>Ioh. Doo.</i>
<i>sequendo.</i>		<i>Rich. Roo.</i>
<i>Summonitores in-</i>	{	
<i>franominati I.</i>		<i>I. R.</i>
<i>S. the Defen-</i>		<i>W. G.</i>
<i>dant.</i>		

O 3

In

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Nihil.

In a writ of Couenāt to leuy a Fyne, *Nihil* seemes to bee no good retorne, for the Sherife ought to summon him in *terra petita*.

In other writs of Couenant, *Nihil* is a good retorne.

In writs of Couenant, the Sherif may summon the Defendant by his person.

CHAP. 56.

Retorn' breuis Originalis in Debt.

Debt.

Plegij de Prose- { Ioh. Doo.
quendo. { Rich. Roo.
Summonitores {
Infranomnat. I. S. { H R.
(the Def.) { W. G.

A. B. Armig' vic'.

And if the defendant be insufficient, then the retorne must be thus :

Plegij

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Plegij de profe- } Ioh. Doo.
quendo. } Kich. Roo.

Infranominatus I. S. nihil habet in ballina mea per quod summoniri potest.

In this writ, *Nihil habet* is a good retorne, without saying, *Nec habuit post receptionem brevis*; or *Nec habuit die quo*, &c. for that shall be intended.

But in this writ it is no good retorne, that the defendant hath payd the debt. *Hic cap. 36.*

Detinue.

In *Detinue*, where it is awarded *Detinue.* that the Plaintiff shall recover the thing demanded, he shall have a *'Distring'* *ad deliberand'*, &c. And the Sherife may thereupon retorne Issues, or *Nihil* as the truth is.

Vpon the *'Distring'* *ad deliberand'*, & to enquire of the value, the Sherife is to enquire by a Jury, and to retorne what damages, and costs the Plaintiff hath sustained, and also what the true value of the goods detained, be.

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Also the Sherife may retorne *Mandau ballino Libertat' qui nullum dedit resp.*

But in the writ *ad deliberand'*, &c. in *Detinne*, it is no good retorne, that there are no such goods.

The Sherife is here to take Pledges of the Plaintife, *de prosequendo*. And to summon the defendant to appeare at the day, &c.

Distringas against the defendant.

A *Distringas* directed to the Sherife to distreine the defendant for his appearance, may be returned after this manner.

If the defendant be sufficient,
then thus :

Manuceptores in- } I. R.
franomin' I. S. } R. G.
Exitus — 3. s. iiij. d.

If there be diuers defendants,
then thus :

40. d. 40. d.

*T. D. & A. R. districti sunt per
terras & catalla sua secundam fortuam
huius*

huius brevis, unde exitus prout patet super eorum Capit': Et manucapti sunt per I. D. & A. S. quod sint ad diem & locum infra scripti iuxta tenorem huius brevis, &c.

And so note that in this *Distring'*, the Sherife must alwayes retorne issues vpon the defendants to compell them to appeare: which issues must be more then the costs of the Plaintifes writ of *Distring'*, (which seemeth to be xiiij.d.) See *hic cap. 89.* that they ought to bee reasonable and to a greater value.

Also the defendant must finde Manucaptors for his appearance.

In a writ of Accompt vpon the *Distring'*, the Sherife returned Manucaptors, *Et quod non sunt Exitus*, and it was adjudged a good retorne.

In Debt vpon the *Distring'*, the Sherife returned *Mandam ballino Libertatis de, &c. qui nullum dedit responsum*, and for that he did not retorn further, *Quod nulla habet Exitus in ballina mea*, the Sherife was amerced.

So that vpon this *Distring'*, the Sherife

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Sherife must retorne reasonable issues vpon the defendant; and must retorne *Distringi. Quare.*

And although the words of the *distring'* be, *Quod d. string' per omnes terras & catalla sua, &c.* yet the Sherife ought to distreine him but reasonably, and not according to the words of the writ.

Also a Clerke may not be distreined by his goods (but see what retorne the Sherife shall make, *hic cap. 36.*

If the defendant be insufficient, then thus.

Nihil.

Infranom' I. S. Nihil habet in balliua mea per quod, nec ubi potest Distringi. Plus hic cap. 82.

Also in this writ the Sherife may retorne *Tarde.*

Also the Sherife may retorne, that the defendant is dead, except it be vpon the *Distring'* in an Atteynt.

Retorne

Retorne de Summons in Dower.

Plegij de Pro- } Ioh. Doe.
sequendo. } Rich. Koo.
Summonitores } I. W.
infranom. I. S. } W. C.

Et ad maxime vsuale ostium Eccle-
sie, parochialis de P. infrascript. super
diem Dominicum, scz. quarto die Iulij,
Anno infrascript. immediate post diui-
num serui. nulla predicatione adinuac
& ibidem existente, publice proclama-
ri feci secundum formam Statuti, pro-
ut istud breue in se exigit & requirit.

A. B. armig' vic'.

So that vpon this writ the Sherife
must first summon the defendants vp-
on the land: And after hee must pro-
claime the Summons at the Church
dore of the Parish, where the land,
&c. lyeth: and then must retorne all
as afore. See *hic cap. 102.*

Retorne

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Retorne de Petit Cape in Dower.

Virtute, &c. tali die & anno Cepi in manus Domini Regis, tertiam partem tenementorum infra spec' cum pertin' prout interius mihi precipitur.

A. B. Armig' vic'.

Vpon the *Petit Cape*, the Sherife must summon the tenant to answer his default (onely) and not to answer to the demandant.

Also the Sherife is to seise the lands into the Kings hands, 15. dayes at the least, before the retorne of the writ.

Retorn' brevis de visu in Dower.

Virtute istius brevis, &c. habere feci infranō' B. C. visū de tertia parti' ten' infra spec' in presenc' N. C. R. D. M. B. & C. D. quatuor milit' (or homines) ex illis qui visui illi interfuerunt: Et ulterius certifico Iustic' infra scr' quod dixi quatuor milit' præd' quod sint corā Iustic' infra scr. ad diem & locum infracont' ad testificand' visum illum, prout per

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per breue prad' mihi precipitur.

In Dower if the demand be of a rent, the land, &c. out of which the rent is ifluing, fhall be put in view:

See *hic* cap. 63.

Retorn' breuis de Seifina in Dote.

Virtute istius breuis mihi directi & huic schedula anex' tali die, &c. haberi feci P:B. vid. in breue pred' nominas' plenariam seisinam de tertia parte Manerij de B. cum pertin' in eodem breue specific', viz. de una aula, &c. tene n'a pref. P.B. in separali p metas & bundas, nomine totius dotis, &c.

So that the Sherife (in Dower) is to make execution; and to put the wife in seisin of the third part, by meetes and bounds, if he can.

And yet in some cases the Sherife is to assigne the wife her Dower to hold in Common *p my & p tout*, and not by meetes and bounds; as of land held by her husband in Coparcinery, or in Common; ; so of the profits of a Mill, of Common of pasture, or of an office.

In Dower of 3. Mannors, or 3. acres, the Sherife may assigne to the wife,
one

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one entire Mannor, or one Acre for all: And hee may assigne the whole Mannor with the Aduowson; or hee may assigne the third part of each, and the third presentment to the Aduowson.

The writ to the Sherife was to deliver the wife ten marks *per annum* in land and rent, and the Sherife delivered her in land 5. marks *per annum* and 5. markes in Rent issuing out of the land, whereof she was dowable, and holden good.

Vpon the recotery of a third part of a Mannor in Dower, the Sherife may assigne to the wife, a Copihold with other lands.

And the Sherife may put the wife in seisin by a clod, or by an herbe, or by any beast being vpon the land.

Plus hic cap. 63.

Vpon an *Habere fac^s seisinam in dote*, the Sherif returned, that she offered the demandment seisin *de tertia parte*, &c. by meeres and bounds, and that she refused it, this is a good retorne.

But if the Sherife in the beginning
retornes,

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retorns, *quod habere fecit seisin*, (shewing the parcells) *que omnia obtuli deliberare, &c.* but she refused it, this is repugnant and void.

If the Sherife shall deliuer to the wife the moyty of the land in execution for the third part, there seemes no remedy against the Sherife, but a *Scire fac* against the wife.

In this writ it is no good Retorne for the Sherife, to alledge *Nontenancie* in him whom the writ mentioneth to be tenant.

Note that the Sherife may execute this writ, *scz.* may assigne the thirds to the wife, himselfe without any Iury.

*Retorn' breuis ad Inquirendum
de dampnis in Dote.*

Executio istius breuis patet in quadam Inquisitione huic breue annex^a.

*Inquisitio Indentat. capta apud, &c.
eoram, &c. per Sacramentum, &c.
Qui dicunt, &c. Quod infranom' I. D.
(tali die, Anno & loco) obiit seisinus,
&c.*

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*Et c. de & in Tenementis infraſpec
& quod tenementa præd' valent per
annum &c. Et quod ſex Anni &
3. quarters Anni delabuntur a tempore
mortis præd' I.D. & quod A.D. infra
nom' ſuſtinnit dampna occasione dotis
ſua. infraſpec' ad valent' x.l. In cuius
rei teſtimon', &c.*

Vpon the writ to enquire of damages, if the Iury will finde no damages, and the Sherife maketh his retorne accordingly, though the Retorne bee not good. yet the Shérife ſhall not bee amerced for this default of the Iury.

Retorne de breue de Droit.

A writ of Right, the writ was, that the Sherife ſhould retorne 4. knights, to chooſe the grand Affiſe retornable ſuch a day, and the Sherife returned that there were no Knights but Burgeiſes, and the Sherife was therefore amerced: for in ſuch caſe the Sherife was to retorne them Knights, though they be no Knights. See *hic* cap. 86.

And yet in a writ of Right, the Sherife returned two Knights, and two Eſquires, to chooſe the grand Affiſe,
and

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and this was holden a good Returne, so as the Sherife returneth, That there were no more Knights within the same Countie. But by others, if they were not all Knights, the Sherifes Returne was without Warrant: and yet it seemeth that the Sherife may return others in default of Knights. *Hic cap. 86.*

If there be not so many Knights in the Countie, as the Sherife shall haue in command to return or to summon, the Sherife may returne, that there are not so many Knights in his Countie.

A writ of Right was brought in the Lords Court, and remooued by a *Tolt* into the Countie Court, and after by a *Pone* it was remooued out of the countie in *Banco*; and thereupon the Sherife returned the Writ of Right, and the *Pone*, but not the *Tolt*; and it was holden, that the Sherife needeth not to returne the *Tols*.

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CHAP. 57.

Etate probanda.

IN this writ directed to the Sherife, to enquire of the age of the Kings Ward, euerie one that shal palle in that Enquest, must bee of the age of fortie two yeres at the least. And there ought to be twelue of the Iurie, as in al other Enquiries.

And the heire is to informe that Enquest by certaine signes and tokens, of the time of his birth, &c. which signes so giuen in euidence, shall be returned by the Sherife, as well as the principal matter. *Quare* for the vse.

EicEtione firma.

Plegij de pro- { Ioh. Doo.
sequendo. } Rich Roo.

Infrancm^s I. S. attachiatu est per
centum oues, pretij viginti librarum.

Or, Infrancm^s attach' { B.C.
est per pleg'. } D.E.

Infra.

*Infranom' I.S. Nihil habet in balli- Nihil.
na mea per quod attachiari potest.*

CHAP. 58.

Returne de Elegit.

Virtute istius brevis ego A. B. Vic' *Elegit.*
Com' infrascript' (tali die & an')
Liberavi I. B. medietatem Manerior'
in Inquisitione huius brevis confus' speci-
ficat' cum pertin': per exten' in dicta
Inquisic' fact'. Tenend' sibi & assign'
suis ut liberum teneamentum suum, quo-
usque idem I. B. debitum & dampna sua
infrascript' leuauerit prout interius mi-
hi praeipitur. A. B. arm' Vic'.

*Executio istius brevis patet in qua- Aliter.
dam Inquisic' huic breui annex.
A. B. ar' Vic'.*

*Inquisitio indeni' capta apud, &c.
per Sacram', &c. Qui dicunt super sa-
cram', Quod B. C. in breui praed' no-
min', (tali die & anno) fuit seisisus in
Dominico suo ut de feodo, de & in uno
P 2 mes-*

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messuag' vocat', &c. iacent', &c. modo in occupatione A.I. vid. clari annui valoris, &c. xls. Ac etiam de & in uno alio messuag', &c. (Qua omnia & singula praed' B.C. nuper perquisiuit sibi & hered' suis de, &c.) Quod quidem messuag' in tenura praed' A.I. una cum, &c. cum pertin', pro medietate omnium terrarum & tenementorum praedict' Ego praed' Vic', deliberari feci I. B. in breue praed' nominat'. Tenend' sibi, &c. quousque debitum suum de C.li. una cum xx. s. pro dampn', &c. leuauerit prout, &c. Et ulterius Iurai' praedict' dicunt, &c. Quod praedict' B. C. Nulla alia sine plura habet bona aut catalla terras siue tenementa in Com' praedict' ad eorum noticiam. In cuius rei testimonium, tam ego praefatus vic' quam Iurator' praedict' huic Inquisitioni sigilla nostra alternatim apposuimus die, anno, & loco supradict', &c.

A.B. Armig' Vic'.

What lands and goods the Sherife may take and deliuer in execution vpon an *Elegit*, and in what manner, see *hic* c. 17. 28.

Vpon

Vpon the *Elegit*, the extent and valuation of the lands, and the preising of the goods must bee by an Enquest of twelue men.

Also the Sherife is to make execution by moets and bounds. See *Plushic*, cap. 28.

Note that if the land be in extent, or alreadie taken in execution, and then an *Elegit* commeth to the Sherife at another mans suit, yet the Sherife may seise and deliuer the same lands againe to the last man vpon the *Elegit*, *scz.* the reuersion thereof, *Tenendum*, &c. *eum acciderit*.

Or else the Sherife may onely extend and value, &c. the land, and retorne the same valuation, and shew further, that he did not, or cannot deliuer the same to the Plaintiff, (or make execution thereof) for that another had the same in execution before.

But for the other moitie of the land which was not extended, &c. to the first man vpon his *Elegit*, the Sherife may presently seise & deliuer the same to any other person, vpon another *Ele-*

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git or execution comming afterwards to the Sherifes hands, together with the reuersion of the first moitie, *cum acciderit.*

Vpon the *Elegit*, *Nihil*, or *Nulla bona*, is a good Returne.

Also the Sherife may returne the extent for lands, *Et nulla bona*. Or the Sherife may returne the Extent of goods, and not lands. He may return *Mandani baltino libertatis, &c.*

Vpon an *Elegit* the Sherife deliuered the lands in execution, without making seuerance; and vpon complaint thereof to the Court, another Writ went to the Sherife to make Seuerance.

A Writ of Extent awarded in the time of one King, and executed by inquisition, but before the returne thereof the King dieth, and after the Sherife returneth the Extent, &c. *quare* if such returne be not without warrant.

Vpon the *Elegit*, for that vpon the Inquisition it appeared, that the Defendant had conueyed his land to another vpon condition, &c. and yet took the profits, the Sherife thereupon returned,

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turned, That he and the Iurie were in doubt, whither the land were extendable, and prayed the aduise of the Court therein.

Note, That vpon an *Elegit* against one that hath two Mannors, the Sherife may deliuer the one Mannor to the Plaintife, in the name of the moitie of all, and is not bound to deliuer the moitie of each Mannor. And so of two acres of land: but this seemeth to bee where the two Mannors, &c. bee of equall yearely value.

Breue de Estrepement.

Note, that the Sherife by force of *Estrepement*, this Writ may resist them which are about to make Wast; and if otherwise he cannot stay or refraine them from making Wast, he may imprison them, or make his Warrant to others to imprison them: and if it be needfull, hee may take *Passé Comitatus* for his or their aid.

Extent sur Recognitiou Statute.

Virtute istius brevis, &c. Capi cor- Extent.

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pus infra nom^o I.S. cuius quidem corpus addicm & locum infraconten^t parat^o habeo, prout interius mihi pracipitur.

Residuum execut^o istius brevis patet inquadam inquisitione huic breui annex^o. A.B. Armig^r Vic.

Inquisitio indentat^o capta apud, &c. 4. die Aug. Anno, &c. coram, &c. virtute brevis Domini Regis mihi direct^o, & huic inquisic^o annex^o per sacrament^o &c. Qui dicunt super sacram^o, Quod B.C. in breue praed^o nom^o, die recog^o debet in eodem breue specificat^o suis seisitus in Dominico, &c. de et in manerio de A. in Com^o praed^o clari anni va-
loris in omnibus exitibus ultra repress^o. C.li. ac de et in Manerio, &c. Et ulterius iurat^o praed^o super sacram^o suum pd^o dicunt, quod praedict^o B.C. die Recog^o debet pdict^o seu unquam postea, nulla alia &c. ad eorum notitiam, quod extendi appreciari, aut in Manus dicti Domini Regis cepi aut seisiri possunt. Quae quidem maneria Terr^o et Tenementa praedict^o cum pertinet ego praefatus Vic^o die captionis huius Inquisic^o cepi in manus dicti Domini Regis per extens^o praedict^o.

dict'. In cuius rei testimon', &c.

I.S. infranom' ; non est inuentus in ballia mea, ideo ipsum capere non possum ad presens. Sed quoad extend' et appreciant' omnia terras et catalla ipsius I.S. iuxta formam istius brevis, executio inde patet in quadam inquisic', huic bri' consui'. Qua quidem terr' et catalla in dicta inquisic' contem' in manus Domini Regis seisi'ri feci.

I.S. infra ser' non est inuentus in ballia mea. Et vltorius certifico, quod seisi'ri feci in Maner' Domini Regis Manerium, &c. in inquisic' huic breui consui' spec', prout intorins mihi precipitur. Residuum execut', &c.

Vpon an Extendi facias vpon a Statute Merchant, the Sherife may return, that the partie non est inuentus, and that he hath extended the land, and deliuered the same to the Plaintife.

Vpon an Extent of a Statute staple, (which is to take the bodie, and to extend the lands and goods) the Sherife returned, that hee hath extended the land, but speaketh not of the goods; and though this be but part of that the Sherife

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Sherife was commanded to doe, yet it was holden to be good for the land.

Vpon an *Extendi facias* vpon a Statute Merchant, the Sherife returned, that he had extended the lands, but did not returne, that he had deliuered them to the Plaintife, whereupon hee should haue beene amerced.

Vpon an *Extendi facias* vpon a Statute Staple, the Sherife extended the lands of the Defendant, and preised his goods, and seised them into the Kings hands, according to the Writ, but deliuered them not to the Plaintife, (which he indeed is not to do vntill the *Liberate* commeth to him, although he ought to haue returned that extent and preisement) and after a Writ of *Prærog.* came out of the Exchequer, commanding the Sherife to leuie first an hundred pounds for the King, &c. and the Sherife returned the speciall matter vpon the Writ out of the Exchequer, *Et ideo nihil inde fecit, &c.* and the Sherife was therefore amerced, and was compelled to returne the Extent in the Exchequer, for the Kings

Kings Debr.

Otherwise vpon an *Extendi facias* the Sherife may returne the special matter, *scz.* That he cannot make execution, for that another hath those Lands in execution by force of an *Elegit*, &c. or for that another is in by discent, &c. for that they are not to bee put out of possession without a *Scire facias*.

Vpon an *Extendi facias* vpon a Statute, it hath beene holden a good returne, that the partie hath no land but onely in ancient Demefne. *Quare & vide hic cap. 26.*

Vpon an *Extendi facias* (sued by two) vpon a statute, the Sherife returned, That one of the Plaintifes was dead, and good. Or the Sherife may returne the Conusor, *Mortuus*.

Vpon an *Extendi facias*, the Sherife returned, that the Conusor was dead, and also an Inquisition of the Extent of the lands of the Conusor, but in the Inquisition no certaine estate was returned, but that the Conusor *fuit seifus die Recognis*, &c. *de Manerio de A.* without shewing of what estate,
and

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and this returne was held insufficient, for that *seisius* may be for life, or in taile, in which cases the land after the death of the Conusor is not extendable: So that where the Conusors death appeareth in the Returne, there, of necessitie his *seisin* must be found to bee of an estate in fee simple onely.

Vpon an Extent of a Statute, the Sherife returned the extent of the land, and not of goods, and it was allowed.

Vpon an extent of a Statute Merchant, if the Sherife returneth *Tarde*, or returneth *Mandani ballino libertatis*, he shall be punished. *Quare.*

The Sherife returneth, that none came to receiue the land, *per quod deliberat' facere non potuit*, good. Also he may returne, *Non est inuentus, nec habet bona, nec terras.*

The Iurie may find, that the Conusor had no land but in right of his wife, and that she ouerliueth him: or that the Conusee hath purchased the land after the Recogn', &c.

Plus hic cap. 24, 25, 26, & 27.

CHAP. 39.

Retorn' de Exigent.

Virtute istius brevis mibi directi, *Exigent.*
 ad Com' meum sent' apud C. in
 Com' C. infrasc' (tali die & anno) in-
 franom' I. S. primo exactus fuit & non
 comparuit. Et ad Com' meum ibidem
 tent' (tali die & anno) prad' I. S. Secun-
 do exactus fuit & non comparuit. Et ad
 Com' meum (ut supra) tertio exactus
 fuit & non comparuit. Et ad Com. me-
 um (ut supra) Quarto exactus fuit &
 non comparuit. Et ad Com' meum
 (ut supra) quinto exactus fuit &
 non comparuit. Ideo prad' I. S. per iudi-
 cium I. W. & R. S. gen' Coronator' dicti
 Dom' Regis com' prad' secundum legē
 & consuetud' regni Anglia utlagatus
 est. (or if it be a woman, wainiataz est.)

If there be aboute two defendants,
 then thus.

Infranom' I. S. & ceteri def. infranom'
 primo exacti fuer' & non comparuer',
 nec

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nec aliquis eorum comparuit. Et ad Com' meum, &c. (ut supra) Ideo pradi' I.S. & ceteri def. infranom' (or name them all) per Iudicium, &c. ut supra.
If any of the defendants yeeld themselves, then thus.

Virtute, &c. & ad com' meum ibidem tent' (tali die & Anno) I.S. & ceteri def. infranom' Quinto exacti fuer' ad quem diem predictus I.S. comparuit, & se reddit prisiona, Domini Regis Castri sui Cantabr. cuius quidē corpus coram Iustic. infra scr. ad d. ē & locū infracōt. parat' habeo prout interius mihi precipitur. Sed ceteri def. infranō. non comparuer', &c. Ideo, &c. ut supra.

*Languidus in pris.
Mortuus. Tamen*

The Sherife also may Retorne,

*quare de hoc.
Protulit supersed
See hic cap. 53. &
hic infra.*

But where vpon the *Exigit*, the Sherife returneth *Reddit se*, hee must haue the body in Court at the day: or els retorne *Languidus in prisiona*.

If the Sherife returneth *Mortuus*, by some

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some opinions the Sherif shalbe amerced, for that by the *Exigent* the Sherife hath authority but to call the party frō County to County to appeare and answer the Law, &c. and if he appeare, then to take and imprison him.

If after two or three Counties, the King shall happen to dye, and in the next kings time, the other Counties be kept and proclamation made, and then the Sherife returneth *quinto exatus*, this is error.

The Sherife may retorne that the party is in Prison vpon a condemnation for debt; but then the Sherife must bring him into the Court.

Also the Sherife may retorne that the party yeelded himselfe to the old Sherife who hath not deliuered him.

Where (vpon the *Exigit*) the Sherife returneth, *Proculit supersedeas*, (or *proculit breue Domini Regis de Non molestando*; or *que le Roy luy mannde p breue de Priuy seale, que il auoit luy Pardon, &c. & command que ne soit endamage, or the like*.) *Ideo ulterius procedere non potui*, the Sherife hath beene

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beene amerced for such Retorns. *Quare ideo.*

Also vpon the *Exigent*, the Sherife may make his Retorne thus. *scz.*

Quod pro defectu (Comitatum et Coronatorum) Nihil actum est.

And so note that he which is sued, if he doe not appeare (vpon the meane proces, &c.) then vpon the *Exigent* he shall besolemnely proclaymed, demanded, or called by the Sherife at 5. Counties, *scz.* from County to County, each one after another, to appeare, and to yeeld his body and answer to the Law, or else that he shall be vtlawed; and if he commeth in at any of the said five County Courts, the Sherife is to take and imprison him. But if he commeth not in within that time, then the Sherife with the assistance of one Coroner (at the least) is to pronounce him vtlawed, *scz.* to pronounce him to be out of the protection of the King and his Law. But the Iudgement is to be giuen or pronounced by the Coroner in the 5. County. And then the Sherife is to retorne the same.

same as before.

And the Sherife in such his returne must set downe certainly the day, yeare, and place, where and when his County Courts are kept, and the partie so called.

Also it must appeare in such Returne, that it was *per Iudicium Coronatorum*; for they be Iudges of the Vtlaries.

An Eufant about the age of 14. yeares, may be returned vtlawed.

Note that the Sherife hath beene deeply amerced, for imbeaseling an *Exigent*, or for retorning the same falsly *hic cap. 37.*

Retorne de Exigent inter duos vic.

Istud breue prout indorsatur, mihi deliberat fuit p. I. C. militem imper. vie Com' infra ser' prox' predecessor' meum, in eius exitu ab officio.

Et ad Comit' meum tent' apud Castrum Cantabr. in Com' C. infra ser' (tal die & Anno) infranom' I.S. Tertia exactus fuit & non comparuit. Et ad Comit' meum tent' (vt supra) Quarte

Q

exa

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exactus fuit, & non comparuit, &c.

For the retorne of an Exigent al-
located Comisar, see my booke
at large.

Retorn' brevis de Proclam' super Exigent.

Virtute istius brevis mihi directi, ad
Comis, meum ten' apud, &c. (tali die
& anno) Primo proclamari feci. Et ad
generalem Session' pacis tenum apud,
&c. in Com' pred' (tali die & anno)
Secund' proclamari feci. Et ad maxime
vsuale ostium Ecclesia de B. infrascr.
super diem Dominicum, sex. (tali die
& Anno) immediate post diuinum ser-
nic' (Nulla predicatio eadem Ecclesia
atunc ibidem existens) vno mense ad
minus antequam infranom' I.S. Quinto
exactus fuit, Tercio proclamari feci,
Quod infranom' I.S. sereddant mihi prout
interius mihi precipitur.

A.B. armig' vic'.

Aliter.

Quod infranom' I.S. & ceteri omnes
des. infranom' se reddant mihi, Ita quod
habeam corpora coram coram Iustic' in-
frascr'

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*frascr' ad diem & locum infracont.
prout istud breue in se exigit & requi-
rit.*

And so note that vpon every *Exigent* where a writ of Proclamation is awarded (and deliuered) to the Sherife before any Vtlary pronounced, the Sherife also must make three severall Proclamations as aforesaid. And for want thereof, &c. the Vtlary shall be void; and besides the party griued may haue his action against the Sherife, and the Sherife shall be further amerced at the discretion of the Iustices. *Plus hic cap. 102.*

*Retorn' sur breue de Restitution
apres Exigent.*

An vtlary being reuerfed, a writ of Restitution was awarded to the Sherife, *pro bonis restituendis*. The Sherife returnd that he had sold the goods for 40. l. and brought the money into the Court; but the returne was holden insufficient, for that the writ *de Capi-
as vtlag'* did not warrant or command the Sherife to sell the goods, *Vide hic
cap. 15. & 30.*

Q 3

Vpon

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Vpon such a weir directed to a baylife (who seised the goods of one that was vtlawed) the baylife may not pleade that he was not baylife, but must answer whether he had the goods or no, and how they are deuested out of his possession.

And so note that the Sherife in some cases may seise goods, and may keepe them, but may not safely sell them. *Vt hic supra.*

And in some cases the Sherife may seise goods, and may and ought to sell them; and notwithstanding that the Iudgement be reuerfed, &c. yet there shall be no Restitution of the goods, &c. *hic cap. 30.*

CHAP. 60.

Retorn' breuis de falso Iudicio.

Virtute istius breuis, assumptis mecum I. W. &c. quatuor discreti & legalibus militibus (or hominibus) de balliua mea, in propria persona mea accessi

acceſſi ad Cur. Dñi Caroli Regi Angl;
de O. ſeni apud O. (tali die & Anno)
& in plena Curia illa Recordari feci lo-
quelam, unde infra fit mentio, Et re-
cordi illud habeo coram Juſtic' inſraſpec'
ad diem inſracontenti quod huic br'i eſt
conſui ſub ſigillo meo, & ſigillis B. C.
D. & E. quatuor legalium hominum qui
recorati illo interfuer'.

And here the Sherife muſt ſet down
and retorne the Names of the foure
Knights of the County which goe
with him, as alſo the Names of the
4. Suitors of the ſame Court whoſe
ſeales be thereto, ut ſupra.

Virtute iſtius brevis, aſſumptis me-
cum C. D. E. F. G. H. & I. K. quatuor
legalibus milit (or hominibus) de Com'
meo, in propria perſona mea acceſſi ad
Curiam E. teni apud, &c. (tali die &
Anno) et in plena Curia illa ab F. G.
& c. ſectator eiſdem Curia, & R. H.
ſeneſchallo ibidem, petij Recordum Lo-
quela, qua eſt in eadem Curia, &c. in-
ter C. D. petentem & I. S. tenentem
feri & mihi liberari: Qui quidem Se-
neſchallus, & Sektatores, Recordum il-

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*Ind inde mihi liberare noluerūt, ob quod
Execut' dicti brevis facere nō potui.*

Or the Sherife may make these
Returnes.

1. That he came to the Court to record the Plea, and that the Suitors would not deliver him the Record, nor suffer him to have it, or that the Suitors there refused to make the Record, or to Record the plea: Or that the Suitors said that there was no such Plea; naming such Suitors by their proper Names, &c.

2. That the Steward, the baylife, and Suitors, (naming them all) were present in Court, when he came to returne the Plea, and required the sight thereof, which they denied him, &c.

3. That after the receipt of this writ, and before the Returne thereof, no Court was holden, so as he could not execute the writ.

4. That the Sherife hath required the Lord to hold his Court, and the Lord would not, &c.

3. *Quod*

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5. *Quod breue adeo Tarde venit, quod Executionem eiusdem facere non potuit.*

And so note that vpon this writ the Sherife is to repayre to the Court in the writ mentioned, and there to require the sight of the Plea, whether it be depending, or determined: Also he is to record the saime Plea, and to return it with the writ.

The Sherife is also to take Pledges of the Plaintife *de prosequendo*: And to summon or warne the defendant to appeare at the day before the Iustices to heare the said Record; and to returne the names of the Summoners.

He must also take with him to the Court foure lawfull men of the same Countie, and must retorne the writ vnder his Seale, and the seales of foure suitors of the same Court, together with the Record.

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CHAP. 61.

Retorne de Fieri facias.

Virtute istius brevis mihi directi, fieri feci de bonis & catallis infranom' I. S. ad valenc' 100. l. (or infra script' 100. l.) quas quidem 100. l. ad diem & locum infra content' parat' habeo, pront' istud breue in se exigit & requirit.

Alias.

Fieri feci, &c. ad valenc' 200. l. & inde vendidi ad valenc' 100. l. quas quidem 100. l. &c. ut supra. & quod residuum remanent intendit', &c. (Or thus, Qua bona & catalla penes me remanent inuendis' pro defectu emptorū.)

Alias.

Fieri feci, &c. quandam dimissionem & concessionem, eidem I. S. per quandam T. G. Gen' per indentur' suam factam, de & in vno messuag', &c. sciuntur, &c. infra balliuatū meam. Et predict' dimissionem, ac omne & totum ius statum titulū terminū annorū, & demand'

demand que predict' I. S. modo habet
de & in predict' pramiss. virtute eius-
dem dimissionis aut aliter, venditioni
exposui & vendidi cuidam C. D. Gen'
pro summa 56. l. 3. s. 4. d. Ac etiam fie-
ri feci de alys bonis & catallis predict'
I. S. ad valenc' 40. l. Quas quidem de-
nar' summas ad diem & locum, &c. ut
supra, Et quod predict' I. S. nulla alia
sine plura bona aut catalla in balliua
mea habet unde resid' praed' debet 300. l.
fieri sine leuari possum secund' exigent',
huius brevis.

2 Virtute, &c. Cepi bona & catal-
la I. S. infranom' ad valenc' omnium
denar' infrascr'. Et illa venditioni ex-
posui, ad quod non inueni emptores. Et
ideo denarios infraspes'. habere non pos-
sum ad diem & locum infracom' pnt
mibi precipitur.

Where there bee diuers of one name.

3 Iustic' infrascr' certifico quod sunt
diuersa persona in Comit. meo Nomin'
& cognom. de I. S. viz. I. S. de B. I. S. de
C. & I. S. de W. Et quia non continet'
in isto breui, de cuius predict' I. S. bonis
& Catallis denar. infraspes' fieri facere.

Ideo

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Ideo ad executionem istius brevis procedere non potui.

Nihil.

¶ Infranam' I.S. nulla habet bona seu catalla, terras sine tenementa (or Nihil habet) in ballina mea, unde denarios (or debitum & dampna) infra speciem, (aut aliquam inde parcelam) fieri facere possum, prout interius mihi precipitur.

Vpon a *Fieri facias*, the Sherife returneth, *quod nihil habet*, it is not good, without saying further, *Nec habuit post receptionem brevis.*

Where the Sherife returneth a *Fieri facias*, &c. hee must withall haue the money in Court at the day.

Or vpon a *Fieri facias*, if it be duly executed, and the money paid to the Plaintife, or he otherwise satisfied, the Sherife needeth not to return the writ.
Hic cap. 38.

Also vpon a *Fieri facias* the Sherife may sell a Lease for yeares, and yet neuer make any mention thereof in his Returne, but to returne generally,
Quod fieri fecit de bonis & catallis.
&c.

Vpon

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Vpon a *Fieri facias* against I.S. who dieth before execution, the Sherife may leuie the execution of the Executors or administrators of I.S.

Vpon a *Fieri facias*, if it shall appere to the Sherife, that the Defendant hath sould his goods by couin, after the Recouerie, there the Sherife is to make execution of the goods notwithstanding such sale.

Plin hic cap. 30, 36, & 29.

Vpon a *Fieri facias sur Denasstant*, vpon a recouerie had in debt, against Executors, the Sherife may return, That the Executors haue sould and wasted diuers other of the Testators goods, and conuerted the money to their own vse.

He may returne, That the Executors *Nulla habent bona seu catalla, de bonis suis proprijs in ballia sua, unde, &c.*

Also vpon this writ, the Sherife may take and leise into his hands such goods of the testators as are remaining in the Executors hands.

Form-

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Formedon.

Plegij de Prose- { *Iob. Doe.*
quendo. { *Rich. Roe.*

Summonitores { *I. H.*

Infranominat. I. S. { *T. S.*

Vpon a *Formedon*, the Sherife
may returne *Tarde, &c.*

But in a *Formedon* the Sherif may not
returne, *Quod nihil habet, &c.* Or, *Non*
est inuentus, &c. For that in this writ
the Sherife may summon the Defen-
dant vpon the land demanded, whi-
ther he be Tenant thereof, or no.

CHAP. 62.

Garrantie de Charters.

THe Procelle in this writ, is Sum-
mons, Attachment, and *Distrin-*
gas infinite; and vpon euerie of these
the Sherife may returne, as is before
shewed.

In this writ also, *Nihil* is a good re-
turne.

Briefe

Briefe de Gard.

In this writ the Defendant is to be summoned.

Vpon this writ the Sherife may returne, That the *Enfant* is in another Countie.

In this writ, vpon the Distresse with Proclamation, the Sherife may returne *Tarde, scz.* That the writ came so late; that he could not make Proclamation.

Vpon the distresse with Proclamation, the Sherife returned, that as to the distresse, *Mandauit balliuo libertatis, &c.* and as to the Proclamation, That he made it himselfe, this is no good returne (by some opinions) for that the whole returne and seruing of the writ belongeth meereley to the bailife. *Tamen quare*, for that the Proclamations are to be made by the Sherife in the countie Court, & therefore he ought rather to execute the whole.

Grand Cape.

Virtute istius breuis &c. (tali die & anno) per visum R.H. & T.H. proborum & legalium hominum de cons' meo, Capi in manus Domini Regis ter-

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ras infraſcripts' prout interius mihi præcipiter.

Summonitor', I.D.R.F.

Aliter.

Ox, Cept in manus Domini Regis, omnia terras & tenementa reddit' & ſervic' cum pertin' in brevi iſto ſpecificat': ſecundum formam huius brevis.

Note that the Grand Cape muſt bee ſerved (ſez. the lands muſt be ſeiſed into the Kings hands, by the view of lawfull men) fifteen dayes before the day of the Returne, ſez. before the *primo die*, and the Sherife ſhall bee accountable for a the iſſues thereof. And yet by ſome opinions, thoſe words *Cape in manus noſtras*, are but of form, and that the Sherife ought not to ſeiſe the lands into the Kings hands by force thereof, ſee *hic cap. 11.*

But the Sherife muſt ſummon the tenant to anſwere to his default, & further to anſwere to the Demaundants action.

Alſo the Sherife muſt returne the names of the Summoners, and weyours,

In this Writ the Sherife may returne that

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that the party hath nothing, *per quod*
Sommoniri potest.

He may returne, *Quod nullus venit*
ex parte querent' ad ostendend' mihi
terras, & ideo non potui Capere, &c.

He may return that there is no such
Turne, &c.

Hee may returne *Mandani balliuo*
libertatis, &c. Capi in manus Domini
Regis duos solidat' redditus infrascr' p
visum &c.

De Petit Cape, vide hic cap. 11.
& 31.

CHAP. 63.

Habeas Corpus. Et corpus
cum causa.

Virtute istius brevis vobis Iustic'
infrasp' certifico, quod ante ad-
uentum istius brevis infranom' I.S.
Captus fuit (in tali loco) & prisone, &c.
Commis. pro suspitione prodicionis, fe-
lonie, sur Capias velagatū (or excom)
sur Account, pro transgressionē, or Vir-
tute

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tute alterius brevis (Domini Regis, cuius tenor sequitur &c.) Attamen corpus eius coram vobis ad die et locum infrascriptum prompti habeo, prout interius mihi precipiter.

And yet if a man be in prison for treason or felony, and be attainted, it seemeth the Sherife may returne this, and that therefore hee cannot haue the bodie in Court at the day, &c.

Aliter.

Infrascriptum I.S. Captus fuit &c. Et Prisoner, &c. Commissus virtute cuiusdam brevis de Capias ad satisfacti: Ideo corpus eius ad diem &c. habere non possum prout &c. But quare of this retorne. II.

For if a man be condemned in any Court for Debt or Damages recovered and his body be therupon taken in execution, and then he procures any writ to the Sherife to remoue his body &c. The Sherife ought to bring in the bodie at the day, according as he is commanded by the writ, And withall the Sherife ought to returne the speciall matter and cause of the condemnation that so at last the prisoner may be remanded,

maunded, &c.

Infranom' I.S. languidus est in pri- *Aliter.*
sona, ita quod propter mortis pericu-
lum, &c. ipsum tute remouere non pos-
sum.

Infranom' I.S. per me non captus fu- *Aliter.*
it, sed p I. C. militem nuper vic' prade-
cessor' meum, & mihi per ipsum mini-
me delibertat' in exitu ab officio suo.
Ideo corpus eius, &c. habere non pos-
sum, &c.

Also vpon these writs, it is a good
retorne that the party is dead.

Domino Regi certifico quod I.S. in- *Aliter.*
frascr' : non detent' existit in prisona
sub custodia mea, Nec fuit die recep-
tionis huius breuis, nec aliqua causa
detentionis ipsius I. penes me residet. Et
ideo corpus ipsius I. & causa detent' il-
lius coram Domino Rege ad diem &
locum infracont' habere non possum pro-
ut interius mihi precipitur.

And note that these writs (of Habe-
as corpus, & Corpus cum causa) are to
bee executed by the Sherife notwith-
standing any commaundement to the
contrary from the Lord Chancellour

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or other subiect whatsoeuer (*inmo. comment del nostre Seignior. le Roy nuxime desouth son priuy scale, ou autex son ordinary power quant al execution de Iustice; except tamen le absolute power del Roy.*) And if the Sherife shall surcease to execute the Kings writ vpon any such ordinary commandement, the Sherife shall bee amerced &c. See *hic cap. 21.*

Note that this Writ de Habeas corpus, shall not be graunted to remouue any prisoner, except the writ bee signed with the proper hand of one of the Iustices of the Court, out of which the same writ shall be awarded.

Habere facias seisinam.

Virtute &c. Iustic' certifico quod (tali die & Anno) Habere feci infra nom' A.G. plenam seisinam de uno messuag' cum pertin' in S. infra spec' in omnibus prout istud breue, &c. Habere feci &c. seisinam de & in Tenementis infra spec'. Or, de manerio de F. xx. acr' terre, 40. acr' prati &c. cum pertin' in F. &c. secundum formam istius breuis

Aliter.

brenis prout &c.

But vpon an *Habere fac' seisinam* (or other writ, where land is recouered) the Sherife may not make these returns following, *scilicet*.

That there is no such land, and therefore he could not make execution, &c.

That a stranger is tenant of the land, and therefore hee could not &c.

That he against whom the recovery is had, hath nothing in the land; or is not tenant thereof, &c.

For note that vpon the *Habere fac' Seisinam*, the Sherife ought to execute the writ, although that a stranger bee seised of the land, and that in truth, none of the parties to the writ were euer seised thereof.

The Sherife returned that he could not deliuer seisin, by reason of Resistance made by I.B. and other persons vnknowne, and was amerced, for that he might haue taken *Posse Comitatus*, &c. And yet such a Returne hath been allowed. *Vide hic cap. 36.*

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Note that vpon the *Habere fac' seisinam*, as also vpon an *habere fac' possession'*, if the Sherife shall duely execute the writ, and that the Plaintife or demandant haue his demand, there the Sherife needs make no returne of the writ.

But vpon the *Habere fac' seisinam*, the Sherife may make these retournes.
scz.

That hee offered to the demandant seisin, &c. and he refused it.

That hee (the Sherife) himselfe was tenant of the land, and so hee could not serue the writ, &c.

That none came to receiue seisin, &c.

That none came, *Ex parte petentis, ad ostenden' tenement' &c.*

And yet in case where the same Sherife made the Summons, there he cannot after make this retourn. *Quod nullus venit, &c. ad ostendendum Tenement'.* Also note, that vpon the *Habere facias seisinam*, the Sherife may put the partie in seisin or possession, as followeth: *viz.*

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1 Of a house, by the Ring of the doore.

Or the Sherife may open him the doore of the house, and bid him to enter, &c.

2 Of land by a bough, twig, clod, or the like, vpon the ground.

3 Of a Rent the Sherife may put the partie in possession thereof by *Parrol*.

Or by any clod or other parcell of the land, as a bough or twig.

Or by any corne, or herbe, or other thing growing vpon the land, out of which the rent is issuing.

Or by Distresse of Cattell leuant and couchant there: but the Sherife (or party) may not driue such cattel off the lands.

Also the Sherife may deliuer seisin or possession of land in one towne, in the name of land in diuers townes.

Also vpon the *Habere fac' Seisinā*, or *possessionem*, the Sherife may breake open the doore, &c. and deliuer seisin or possession.

R 3

Habere

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Habere fac' visum.

*Virute, &c. Iustic' infrascr' certifico
Quod (tali die & Anno) Habere fec'
infranom' H.H. & I. uxori eius, visū
de messuag', &c. infraspec' cum pertin'.
Et dixi A.C.D.E.F.G. & H.I. qua-
tuor milit' (or hom') de Com' meo, (or
ex illis) qui visui illi interfuer'. Quod
sint coram Iustic' pradicl' ad diem &
locum infraconi', ad testificandum vi-
sum illū, prout interius mihi prapipit'.*

In reall actions, where the Tenant doth not well know the land demaunded, he make pray the view, *scz.* that he may bee shewed which is the land demanded.

And the Sherife may returne, That he was readie to make the view, and that the Tenant (nor any for him) came not to haue the view.

Also the Sherife is not bound to know or to seeke the land demanded, and therefore except the demaundant sheweth it to him, hee may returne,
*Quod nullus venit ex parte petentis ad
ostendendum mihi Tenementa petita, &
ideo dicto T.S. (petenti) de tenementis
infra-*

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infra spec' habere visum non potui.

Or the Sherife may returne, *Quod mandavit ballivo libertatis, &c. Qui respondit, quod petens non venit ad ostendendū, &c. Ion il fuit prist, &c.*

If the demandant shall shew to the Sherif a strangers land, by force whereof the Sherife enters, &c. he is no trespasser.

In a *Pracipe* of a Rent, the Sherife (vpon the view demanded & granted) shall not returne *Habere feci visum in x. s. redditus*: but hee must returne, *Habere feci visum de terra unde redditus, &c.*

If a rent be granted, but out of no land, and yet certaine land is charged to the Distresse, if the rent be behind there in an Assise, &c. this land so charged shall be put in view.

If the Rent be granted out of one land, and other land within the same County be charged to the Distresse, here both these lands shall bee put in view.

Where a Manner is demanded, nothing shall be put in view, but the

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Scite with the appurtenances, and not by parcells.

If the Mannor be demanded, and the thing put in view is but a house, and a Carue of land of another name, this is not good.

If a house and ten shillings Rent be demanded, and nothing put in view but the house, it is not good.

If a house and land be demaunded, each parcell shall be put in view.

Where part of a Mannour is in demand, yet the view shall bee of the whole.

Where a moitie, or a third, fourth, or other part of house or land is in demand, yet the whole shall bee put in view.

Where a Carue of land is demaunded, the moitie thereof may bee put in view.

In an Assise of land lying in two townes, the view ought to be made in both Townes.

In an Assise the view ought to bee made where the Disseisin began.

Vpon a demand of ten acres of land,
the

the Demaundant said to the Tenaunt, That those ten acres were in such a field, and abuttalled by them, without bringing the Tenaunt to any parcell thereof, and the Sherife returned it accordingly, and it was holden a good view.

Note, that when the Sherife maketh the view, hee must goe to the Tenements; &c. demanded, or to some part thereof.

And he must haue the Viewors present, who are to take view of the thing or place in question, &c.

And he ought to giue warning to the Tenant, of the time when the view shall be made.

And hee must returne the names of the Viewors, (*ut supra*) and must warne them to bee before the Iustices at the day mentioned in the writ, to testifie their view, &c.

Homine Repleg'.

Virtute, &c. Iustic' infra scr. certi- *Homine Repl'.*
fico, Quod statim post receptionem e-
iusdem

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*iusdem brevis accessi ad prad' I. S. de
pleg' facere prad' B. quem prad' I. S.
mihi ostendere noluit, sed prad' B. ante
aduentum istius brevis, ad loca mihi in-
cognita elongavit, Et post receptionem
eiusdem brevis prad' B. non est inuentus
in halkina mea, p quod prad' B. repleg'
non possum, prout interius mihi precipi-
tur.*

Aliter.

*Virtute, &c. certifico quod prad' B.
elongatus est ad loca mihi incognita per
infranom' A.C. & D. p quod, &c.*

The Sherife also vpon this writ may
make these retornes following, *scz.*

That hee could not haue the view,
&c. *p quod, &c.*

That the defendant claymeth the
Plaintife to be his Ward.

That the defendant claymeth the
Plaintife to be his Villen.

CHAP. 64.

Inquisitions by a Iury.

FOr the forme of the Inquisitions *Inquisic^o.*
and returne thereof. See *hic cap. 58.*
& 68.

Vpon a Writ of Admea-
surement. *hic cap. 49.*

Vpon a *Capias utlagat.*
cap. 54.

Vpon a writ to enquire
of damages.

Detinew. *cap. 56.*

scz. in Dower. *cap. 56.*

Trespas. *cap. 77.*

Vpon an *Etate pro-*
banda, cap. 57.

Inquisiti-
ons, in
what cases

Vpon an *Elegit. cap. 58.*

Vpon an Extent. *ibid.*

Vpon a partition. *cap.*
68.

Vpon a *Proprietate pro-*
banda. cap. 73.

Vpon a Redisseisin. *c. 93*

Vpon

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Vpon a *Secunda Super-
operatione cap. 76.*

Vpon a writ to enquire
of wast. *cap. 79.*

The Sherife in all his Inquisitions taken and returned by him, must therein set down the certainty of the yere, day & place of the taking of the Inquisition.

If the writ appoints that the Enquest shall be taken at a day or place certaine, the Sherife must retorne that it was taken at the same day or place.

Where the Sherif is to make an Inquisition; it seemeth to some, that none of the Enquirors may be challenged, for that they are but an enquest of office: but yet in a writ to enquire of wast (where the Sherif is both a Iudge & an officer) the Enquirors may be challeng'd & if the Sherife shall deny it, it is error.

And so it is in a writ of Reditiseisin: And so note that the Sherif may make the Pannell, and after may iudge the same to be quashed, if there be cause.

Where the Sherife is to make Inquisition (by a Iury) and the Iury appeare, and haue their charge, &c. and by

by reason of some difficultie the Sherife giueth to the Iurours respite for certaine dayes, & at the day so appointed to the Iurie to (bring in or) giue their verdict, one of the Iurie maketh default, *quare* whither the Sherife may not assesse a reasonable fine vpon him, and returne the same fine, (especially where the Sherife is made a Iudge of the cause.) And such giuing of respit to the Iurors by the Sherife, seemeth warrantable.

Note wheresoeuer the Sherife shall make a false returne, an Action *Sur le case* lieth against him: but if the Sherife shall make Inquisition by a Iurie, and returne the same, although it bee false, yet the partie hath no remedie against the Sherife, nor against any other. *Quod nota bene.*

But if the Iurie shall find any thing without warrantie, & the Sherife, shall take or returne the same, he shall bee amerced. See *hic cap. 79.*

What the Iurie may find, and what not, see *hic cap. 56, 58, 77, & 79.*

In euery case the Sherife ought to
make

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make his enquire by twelue men at the least.

And when the Iurie haue appeared, the Sherif must swear them, and then giue them their charge, *scz.* to make enquire according to the Writ.

After the charge giuen, if any of the Iurie shall depart without giuing vp their verdict, the Sherife may returne, That the Iurors were charged before him, and that after, such of the Iurie (or the Iurors) departed in despight of the Court, without giuing vp their verdict; and such Return is good, and an Attachment will thereupon go out against the Iurors.

Note that all Inquisitions made by the Sherife, must be by writing indented, & returned vnder the seale of the Sherife, and of every Iuror.

An inquisition taken and executed by the Sherife in the time of one King, and then the King dyeth, *quare* whether the Sherife shall now returne the same inquisition without a writ first to him after directed for that purpose.

Vpon an inquisition, if any doubt shall

shall arise, &c. the Sherife may returne that hee and the Iurie were in doubt, shewing wherein, and so pray the aduice of the Court therein. *Hic.ca.58.*

And in most Inquisitions, the Sherife is to summon or giue warning to the parties, that they may be present therat, if they will, *scz.* to plead, giue in euidence, or make their Challenge, &c.

CHAP. 65.

Leuari facias.

Virtute, &c. *Cepi in manus Domini Regis, quoddam hospitium cum tribus shopis ipsius I.S. infra spec': Qua valent per annum ultra repris. x.l. Et quod præd hospitium cum shopis præd saluo custod' donec aliud a vobis inde habeo in mandatum.* *Leuari facias*

Vpon a *Leuari facias*, the Sherife may returne, that hee hath leuied ten pounds of the summe, the which hee hath deliuered to the Plaintiffe.

Plus hic cap.29.

I.S.

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Aliter.

I. S. infraſcr^o, nulla habet bona ſive catalla, in ballina mea, de quibus denarios infraſcrip^t aut aliquam parcellam inde lenari poſſum, prout interius mihi præcipitur.

Lattitat.

Vpon a *Lattitat*, *Non eſt inuentus* is a good returne.

Alſo *Cepi Corpus*, and other returns may be made vpon a *Lattitat*, as vpon a *Capias ad reſpondendum*, as it ſeemeth.

Liberate.

Liberate.

Vpon a *Liberate*, if the Sherif hath duly executed the writ, and payd the money to the Plaintife, he needeth not to returne the writ. *Hic cap. 38.*

Virtute iſtius breuis (tali die & anno) Liberaui L. S. infra nom^o Maneriu^o infraſpec^o, cum pertin^o, Tenendum ſibi & assign^o ſuis vt liberum tenementum ſuum, quonſque ſibi de debito infraſcr^o, una cum dampnis miſis & expenſis, qua in hac parte rationabiliter ſuſtinuit, plenar^o ſatisfact^o fuerit, prout iſtud breue in ſe.

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se exigit & requirit. I.S. infranominatus non est inuentus in balnea mea.

Vide plus hic cap. 25.

CHAP. 66.

Retorne de Briefe de Medio.

PLegij de Pro- { *Ioh. Doo.*
sequendo. { *Rich. Roo.*
Summonitores in- { *H. I.*
franomin' I. S. { *T. S.* • *Mesne.*

In a writ of *Mesne*, the Procelle which is given by statute, is Summons, Attachment, and the Grand Distresse, which shall haue day of Returne by such time that two Countie Courts may be holden, in which the Sherife shall make Proclamation, that the defendant come to acquite the Plaintife or Tenant, &c. And if the Defendant commeth not, and that the writ be returned, the Defendant shall bee foreiudged.

For the forme of the return of Proclamation of Summons, see *hic cap. 70.*
S Vpon

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Nihil.

Vpon the Writ of *Mesne* the Sherife may returne, *Quod nihil habet medius unde potest summoniri.*

Or, *Nihil habet per quod potest attachiari.*

Or, *Nihil habet per quod potest distringi.*

Retorn' brevis Eligend' Militis & Burgens. Parliamenti.

Virtute istius brevis mihi directi, in pleno Comitatu meo teni' apud Cantab' (talidie & anno) per assensum eiusdem comitatus Elegi feci duos Milites de Com' meo prae' viz. E. P. & I. C. ad faciend' prout istud breue in se exigit & requirit.

Feci etiam praeceptum W. D. maiori villa de C. in Com' meo, quod de eodem burgo Elegi fecerit duos burgens. ad faciend' quod istud breue exigit, qui quidem Maior sic mihi respondit quod elegi fecerit de prae' burgo de C. duos burgenses, viz. P. F. & I. W. ad faciend' etiam prout istud breue in se exigit & requirit.

Pro.

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Proclamari etiam feci omnia in isto breui content' secund' formam & effectum huius breuis, & prout istud breue requirit.

Residuum vero Executionis istius breuis patet in quibnsdam Indentur' huic breui annex'.

And then there must be indentures made betweene the Sherife of the one part, and some of the freeholders being chusers (of the Knights) of the other part; in which indentures the names of the Knights shall also be set down, &c. See *hic postea cap. 92.*

For the forme of these Indentures, see my booke at large.

The like Indentures also are to bee made betweene the Sherife of the one part, (and the Maior or Baylife, *quare*) and some of the free Citizens or Burgettes of the City or Borough (being chusers of their Citizens or Burgettes) of the other part; In which indentures also the names of their Citizens or Burgettes must be set down, &c. *hic cap. 92.*

The forme of which last Inden-

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denture, you may also see in my booke at large.

And all these Indentures must be returned with the said writ.

Plus hic cap. 92.

CHAP. 68.

*Retorn' brevis originalis in
Partitione.*

PLegij de pro- { Ioh. Doo.
sequendo. { Rich. Roo.
Summonitores in-
franominati R. { W.A.
B. & Eliz. vx- { H.F.
oris eius. {
A. B. Armig' vic'.

The Returne of the writ of
Partition,

*Executio istius brevis patet in qua-
dam Inquisitione huic breui an-
nex'.*

*Virtute brevis Domini Regis mihi
directi.*

directi, & huic schedula (or huic par-
tition) Indent. annex ego A.B. armig'
vic' Com' prad' (tali die & anno) in
propria persona mea accessi ad messuag'
(or ad Tn'ta) in breui prad' specificat.
Et p' Sacramentum I. B. R. B.&c. (ad
numerus xij.) proborum & legalium
hominum de Com' prad' ac viscer' in eo-
dem breui specificat' habito respectu
ad verum valorem eiusdem messuagij
(or eorund' Ten'tor) cum ptin', eundem
messuag' cum ptin' in quatuor equales
partes partiri feci, unam partem parti-
um illarum, viz. &c. Tenendum H. S.
& F. uxori eius in breue prad' nominat'
in separalitate p' metas & bundas, in
iure eiusdem F. Aliam partem inde
viz. &c. Tenendum B.R. & Eliz. ux-
ori eius in breue prad' nom' in separali-
tate, in iure eiusdem E. * Ac duas
alias partes inde viz. &c. Tenendum
prafato I.S. in separalitate, in iure suo
proprio. Et ego prafatus vic' die & an-
no superdictus eas deliberari & assign'
feci, prout idem breue in se exigit &
requirit. In cuius rei Testimonium,
&c.

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And it is fit to name and abutte, and shew the contents of the severall parcells.

* If any of the parties be absent, the Sherife may make his returne thus ; *Et quoad duas partes residuum Tenementorum præd' in brene præd' specificat' I. S. in eodem brene similiter nominat' ad partitionem præd' deliberand' & assign' Iustic' infra spec' certifico, Quod nullus ex parte ipsius I. S. venit ad recipiend' de me easdem duas partes, Ita quod duas partes illas præfato I. S. liberare & assignare non potui, prout brene præd' in se exigat, &c. In cuius rei Testimon', &c.*

So that here the Sherife must in person goe to the Tenements, &c. Hee must make the partition by the oath of xj. men. The partition must be made by the Jury ; who must doe it equally ; and then the Sherife may assigne the one part to one, and another part to another, &c. at his election, and by meetes and bounds : and here the eldest sister is not to chuse, &c.

Or vpon the partition to be made
be.

between 2 parceners, of two Mannors, the Sherife may assigne the one Mannor to the one, and the other Mannor to the other, so that both the Mannors be of equall value. And so of 2. Acres of land, &c.

The Sherife must returne the Partition by writing indented vnder his owne seale, and the seale of euery Iuror.

Vpon a partition to be made between tenants in Common, where one of the hath purchased other lands which lie intermixt, and cannot be knowne, the party which purchased such lands, ought to shew to the Iury the bounds (or the certainty or number of Acres) of his land so purchased, but if neither party will therein giue euidence to the Iury, yet the Sherife and the Iury are to make the partition at the rperils, and aswell as they can.

See a good forme of the Returne of this writ of Partition, *Libro Intrat. fol. 452, tit. Partition diu. 3.*

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CHAP. 69.

Pramunire.

Vpon this writ the Sherife returned that the defendant was garnished generally, but sheweth not what day, and it was disallowed: for such garnishment ought to be two moneths before the returne.

Vpon this writ the Sherife returned, *Quod Pramunire fecit, &c. quod esset, &c. coram. &c. ad faciend' quod istud breue exigit & requirit*, this is a good returne.

The Sherife may returne that the defendant, *Nihil habet in balliuamea p quod eum pramunire facere possum ad presens, nec est inuentus in eadem.*

CHAP.

CHAP. 70.

Præcipe quod reddat of land.

IN a *Præcipe quod reddat*, the Sherife may not make any of these 5. returns following, *scz*,

That the defendant is not tenant: for the Sherife may summon him *in terra petita*.

That the defendant *Nihil habet, unde eum summonire potui*: Or,

That the defendant *Non est inuentus. Causa qua supra*.

That the tenant is an *Enfant*, or *Feme Couert*.

That the tenant hath yeelded the land to the demandant.

For if the tenant shall yeeld the land to the demandant, yet the Sherife must summon the tenant, and must returne the same, for that such yeelding of the land must be in the Court, &c.

In a *Præcipe* against two, the Sherife returneth one of them summoned, and

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and the other not, this is not good, but he must summon them both, and so make his Returne.

In a *Pracipe quod reddat*, the Sherife may returne, That the Tenant is dead, (or deposed, being an Abbot, &c.)

If the Sherife shall returne the Tenant summoned, where in deed he was not summoned, the Sherife is punishable.

Note that in a *Pracipe quod reddat* there must be two Summoners at the least, and the Sherife or his Officer, in the presence of those Summoners, ought to summon the Tenant to keep his day of the Returne, (naming that in certaine) and also he ought to name the demandant, & the land in demand.

Hic cap. 31.

Proprietate probanda.

Vpon a *Keplewin* (*Alias*, or *Pluries*, *Repleg'*) directed to the Sherife, if the Defendant claimeth propertie in the Cattell (or goods) distreyned, &c. the power of the Sherife ceaseth and determineth,

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mineth, so as the Sherife may not Repleuie, or make deliuerance of the. But the Sherife is to returne, *Quod def. clamat aueria, &c. esse sua. Ideo, &c.* And vpon such Returne the other partie may sue out his writ *de Proprietate probanda.*

Vpon this writ *de Proprietate prob'* the Sherife in his County Court, and before the Coroners, shall impannell a Iurie to enquire *in praesentia partiũ* (if they will) of the propertie of the Cattell, (or goods) *scz.* to whom the property of the same was at the time of the taking: and if it bee found, that the propertie was in the defendant, the Plaintife shall be amerced by the Sherife in the Countie. But if it be found that the Defendant had nothing in the Cattell (or goods) but that the propertie was in the Plaintife, then (if the Plaintife shall find Pledges *de Prosequendo*) the Sherife shall attach the defendant, *ad respondendũ tam dom. Regi de contemptu, quam querenti de dampnis, &c.*

And the Defendant shall afterward
be

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be committed to prison by the Iustices, there to remaine vntill hee hath paid a fine to the king for such his false claime; but that punishment and fine shall be inflicted and set by the Iustices *in Banco.*

Also vpon the propertie found for the Plaintife (as aforesaid) the Sherife shall make deliuerie of the Cattell, &c. to the Plaintife.

Vpon this Writ the Iurie are onely to enquire to or in whom the propertie of the Cattell was at the time of the taking. And here the verie title of the Cattell or goods shall bee giuen in euidence, and tried before the Sherife.

And vpon this triall the partie may challenge the Iurie. But this writ shal not be granted but onely where the Repleuin is sued by writ, (and not where it is onely by Plaint) neither shall it be granted but vpon the Sherifs Returne, &c.

Note that the Bailife or seruant may claime propertie for his Master, & one Defendant may claime propertie, but an Estranger cannot claime propertie. And

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And although the Baylife or Seruant shall claime propertie for their Lord or Master, yet the Sherife may make deliuerance of the Cattell, notwithstanding such claime, (and may not safely returne such claime made by the seruant) but if the right owner of the goods himselfe claimeth property, then the Sherife may not make deliuerance, but must returne, *Quod def. clamat aueria, &c. ut supra.*

Also before the enquire of the propertie be made in the Countie Court, the Sherife is to giue warning to the Defendant thereof, that he may be present thereat if he will.

And the Sherife also must giue warning to the Plaintife, to be there to giue in his euidence to the Iurie. &c.

Mes nota que le triall del propertie en la Countie Court den't le Vic' per cel Briefe, ne lier les parties, &c.

Retorne de Proclam' de Summons Proclam.
in Breue de Admeasurement.

'Ad Com. meum tentum apud Castrum Cantabr' in Comitatu Cantabr'
infra

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infrascr^o (tali die & anno) Et ad Comitatus meum tens^o apud Castrum Cantabr^o in Com^o C. praed^o (tali die & ann^o) supraed^o, proclamari feci omnia & singula in Breni praed^o specificat^o, prout mihi interius praecipitur.

The like returne of Proclamation may be made vpon the writ de Communis Custodia, &c. but that there must be three Proclamations, &c.

Summons.

Vide Retorne de Proclam^o de

Summons:

- In Breife de Dower, hic cap. 56.*
- Sur Exigent, cap. 59.*
- In Breife de Wast, cap. 79.*
- In Breife de Mesne, cap. 66.*

*Retorne de Pone, de Remou-
ner Plee.*

Pone.

*Plegij de Pro- } Ioh. Doo.
sequendo. } Rich. Koo.*

*Infranom^o I.S. at- }
tachiatus est per } N.F.
Plegios } R.D.*

Or the partie may bee attached by his goods, and then thus :

*Infranom^o I.S. attachiatus est per
vnuum*

unum equum pretij xx.s.

*Infranom' I.S. nihil habet in ballina vibil.
mea, per quod attachiari potest.*

And note that the *Pone* is but a Summons, *scz.* a command to the Sherife to summon or prefixe a day to the parties, Plaintiffe and Defendant, that they appeare in *Banco*, &c.

If it be in a writ of Right, see what the Sherife must returne, *hic cap. 56.*

And if it be in a Repleuin, the Sherife must returne the Plaint or Plea, &c. out of the Countie Court, into the Common Banke, and must returne the same vnder the scales of foure Suitors of that Court, as followeth :

*Virtute istius Brevis mihi directi
posui coram Iustic' Domini Regis de
Banco apud Westmonaster' Loquelam
qua est in Com' meo (per breue dicti do-
mini Regis) inter T.W. & H. B. de a-
nerijs ipsius T.W. caps' & iniuste deten-
tis vt dicij', prout patet in quadam sche-
dul. huic breui annex'.*

Or thus : *Virtute istius brevis in
forma infrascr' posui loquelam infrascr'
ad diem & locum infracontenti', prout
interius*

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interius mihi precipitur. Cuius quidem loquela record' patet in schedul', &c.

Summonitor' P.T. & I.D.

Schedula.

Ad Comit' meum teni' apud C. (tali die & anno) T. V. Scheda queritur versus H. B. de placito Captionis & iniuste detention' auerrior, Et sunt pleg' de prosequendo & retorn' habēdo si return' inde adiudicetur, viz. I. M. & W. F. In cuius rei Testimon' I. K. B. C. D. G. & R. S. quatuor legales homines ex illis qui Record' illo interfuerūt in plena Curia illa eidem recordo sigilla sua alternatim apposuer' die & anno supradictis.

In a Repleuin a *Pone* went out, and at the next County Court the Plaintife was Nonfuit, or hath discontinued his Suite, yet the Sherife may execute the *Pone*, (*scz.* may record and returne the plea.) And yet for that by the Nonfuite there resteth no plea (or thing) to be remooued, the Sherif may returne, *Quod ad proximum Comitatus &c.* the Plaintife was Nonfuit, *Et sic Nulparol la, &c.*

Note that the Pleynt onely shall bee remoo-

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remouued, and the Auowry: But the Proces, the proceedings, and continuance thereof shall not be remouued.

And wheresocuer a writ commeth to the Sherife to remouue the Plea, out of the Countie Court, &c. the writ must be openly read in the Court, that the other party may haue notice thereof

CHAP. 71.

Quare impedit.

IN a *Quare Impedit*, the Sherife must summon the defendant.

And this summons of the defendant may be made in the Church, or to the person.

The Sherife in this writ may returne *Quod querens non inuenit Plegios de Prosequendo.*

Also vpon this writ, the Sherife may returne *Tarde.*

Also the Sherife may returne *Nihil* vpon the summons, and vpon the attachment,

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Attachment, and vpon the Distringas.

CHAP. 72.

*Recordare facias Loquelam
in Comit'.*

Virtute istius breuis mihi directi in pleno com' meo teni' apud &c. (tali die & Anno) Recordari feci loquelam, qua est in eodem com' inter partes infra scr' : vnde interius fit mentio ; Quae quidem loquela patet in quadam, sebedula huic breui annex. Et recordum illud habeo coram Iustic' infra scr' ad diem & locum infra contenti' sub sigillo meo, & sigillis W. H. T. R. &c. quatuor proborum & legalium militum (or hominum) eiusdem com' ex illis qui record' illo interfuer'. Et partibus infra scr' diem & locum illum praefixi, quod tunc sint ibi in loquela illa prout iustum fuerit prosecutus, prout interius mihi praecipitur.

Orthus, Virtute huius breuis recordari

cordari feci loquelam qua fuit in com' meo sine breui Domini Regis inter I. & H. infrascr' de aueris ipsius I. capi' & iniuste decem' & partibus infrascr' &c. ut supra.

Residuum executionis istius brevis patet in quad' sched' huius brevis annex'.

R. S. queritur versus I. S. de placito captionis & iniuste detentionis aueriorum suorum (contra vad' & pleg' &c.) Et sunt pleg' de psequend': Necno de retorno habendo si returna adiudicetur D. E. In cuius rei testim', &c. ut antea in returne de Pone. *Querela.*

This *Recordare* is onely to remooue the suit into the Kings Court, out of the Court of Antient Demesne, Countie Court, or Lords Court.

In the writ de *Accedas ad curiam* the Sherife must take with him foure sufficient discreet and lawfull men of the same countie: But in this *Recordare fac' loquelam* the Sherif needs not to take any with him; but both these writs must be returned vnder the scales of the Sherife, and of foure of the Suitors.

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Also the Sherife is first to require the view of the plea, and to record the same in full Court, &c.

Then he is to summon the parties to be before the Iustices at the day of the Returne.

Or hee may cause this writ to be openly read in the same Court, to the end that the parties may have notice to appeare at the day of their returne thereof &c.

And then he is to returne the same Record (as aforesaid) together with the Writ.

But nothing shall be removed, but onely the Pleint.

Note that the Suitors are Iudges in the county Court, and therefore the returne must not be *Recordari feci loquelam qua est in eodem comit' coram me*; (nor *ad comit' tentum coram me*) but it must be *coram* (such and such) *Sectatoribus curia, &c.*

Also the Schedule must be, *Ad comit' meum tent' (tali die & Anno) coram, such and such, sectatoribus Curia* and not *coram me*.

Now

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Now in a *Recordare de anerijs*, the Sherife may returne, *quod causa non est vera.*

In a *Recordare fac' loquelam*, the Sherife may returne, that the Suitors would not deliuer to him the Record, nor suffer him to haue it.

Or that the Suitors would not record the plea.

Or that the Suitors answered him that there was no such plea depending in the Court.

Note that if any foure of the Suitors doe deliuer the Record to the Sherife, and he returne the same, it shall be holden a good Record.

Also in a *Recordare* the Sherife may returne *Tarde.*

Vpon a *Recordare fac' loquelam*, although the plaint or suit bee determined, yet the Sherife is to make execution and returne of the Writ, as afore-sayd.

The Sherifes dutie in executing this writ of *Redisseisin*, see *hic. cap. 93.* *Redisseisin.*

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CHAP. 73.

Retorn' de Repleuin, &c.

Vpon a Repleuin directed to the Sherife, it seemeth that he needeth not (by the Common Law) to returne the writ vntill the *Pluries Repl'*, but may make *Repl'* vpon his owne authoritie; but if at the *Pluries* he doth nothing, then an attachment shal go out against the Sherif, directed to the Coroners, &c.

And all these Writs, *scz.* the *Repleuin*, *Alia*, and the *Pluries*, may be sued out all at one time, and deliuered to the Sherife, as the Plaintife shall thinke good.

Vpon a *Repleuin*, the Sherife may make these returnes following, if the case so require.

Plegij de prosequendo, & de retorno inde habendo, si retorna inde ad iudicetur. I. D. R. R.

*Virtute, &c. Replegiari feci (or de liberari feci) infranom' R. aneria infra-
spec'*

spec' prout interims mihi precipitur.

1. *Quod aueria & catalla infranom' R. (qua I.S. cepit & iniuste detinuit, ut dicitur) elongata sunt (ad loca mihi incognita) per prad' I.S. Ideo prefato R. aueria & catalla sua prad' Repleg' non possum prout interims mihi precipitur.*

2. That the defendants hath esloigned (or conueyed away) the cattell out of his bailiwick (or Countrey) *Ideo, &c.*

3. *Quod accessi ad locum, &c. Et visum habere non potui de auerij, &c. Ideo, &c.*

4. *Quod nullus venit ex parte querentis ad demonstrandum mihi aueria, Ideo, &c.* And yet if the Plaintife sheweth the Officer a strangers cattell, and the Officer deliuereth them, he is a trespasser by some opinions.

5. That the defendant claimeth property in the goods, *Ideo, &c.*

6. That the Plaintife hath taken his cattell againe.

7. That the cattell are dead.

8. That the defendant hath put the cattell within the Rectory of the Church

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Church of W. so as hee can not make deliuerance.

9. Also where the cattell are driuen into a Fort or Castle, it seemeth that the Sherife may returne, *Elongata*, &c.

But these returnes following are not good, *viz.*

1. That the Cattell are in a Fort, Castle, or Parke, so that he could not make deliuerance, is not good.

2. *Quod aueria, &c. Elongata sunt ad loca incognita infra Comitatum meum*, is not good, for the Sherife is to take notice of them if they bee within his County.

3. *Quod visum habere non potui de auerijis*, is not good without saying, *Accessi ad locum, &c.*

4. That the baylife or seruant claime property for his master, &c. for by some opinions, the master cannot claime property by his baylife or seruant. *Quere & vide hic cap. 70.*

5. That there are no such (goods or) cattell within his bayliwicke: for in such case the Sherife must returne,

Quod

Quod elongata sunt.

6. That the defendant tooke the
cattell for the Kings debt, &c. Or,

That the defendant deliuered the
cattel to another in execution by force
of a recouery, &c. these are no good
returnes.

Also the Sherife (vpon a Repleuin,
&c.) may not returne, *Mandam balli-
na libertatis, &c. Qui mihi nullum de-
dit responsum.* Or *qui non vult facere
Deliberat*, for that the Sherife (vpon
such returne, &c. made by the baylife of
the Libertie, or vpon such default of
the baylife) ought himselfe presently
to enter into the Franchise, and to
make deliuerance of the cattell, &c. *hic*
cap. 40. & 114.

Plus hic cap. 114.

*Retorn de Repleuin sur Retorno
Habendo*

*Plegij de prosequendo & B.C.
de retorn habenda si, &c. D.E.*

*Virtute istius breuis mihi directi de-
liberari (sive Repleg') feci infranom R.
B. aueria qua I.S. in Curia Dom Re-
gis*

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*gis adiudicat' fuer' prout interius mihi
præcipitur.*

Vpon the *Returmo habendo*, the Sherife may returne, *Quod azeria elongata sunt, &c.*

But if the writ *de returmo Hab'* bee awarded to the Sherif after the writ of second deliuerance prayed by the Pl^r, the Sherife hath no power to execute the *returmo habendo*, but the second deliuerance; for the writ of second deliuerance is a *Superfedeas* to the *returmo habendo*, so as the Sherife cannot returne it, &c.

Note by some authorities, that the Writ *de returmo habendo*, is not returnable.

Also note that the Sherife) before he maketh deliuerance of any distresse) must not onely receiue of the Plaintife, Pledges *de prosequendo*, but also Pledges for the returne of the beasts, if returne be awarded. *Plus hic cap. 114.* And if the Sherife taketh insufficient Pledges *de returmo Hab'* they are as no Pledges, and he shall answer the price of the beasts, &c,

CHAP.

CHAP. 75.

Retorne de Scire facias.

Virtute istius brevis, &c. per C. D.
& E. F. probos & legales homines
de ballina mea, Scire feci infranom^s I. S.
quod sit coram Iustic^o, &c. (vel coram
Domino Rege, vel coram Baronibus do-
mini Regis) ad diem & locum infrasc^o.
Ad respondend^u R. H. infranom^s. Or,
Ostens. in forma pradi^o. Or, Ad osten-
dend^u si quid pro se dicere scias, quare,
&c. Or, Ad informand^u di^o Dom^o
Regem, prout, &c. Or, Ad faciend^u
& recipiend^u ea qua istud Breve exi-
git & requirit. Or, Ad faciend^u quod
Breve requirit.

And note that it is not enough for
the Sherife to retorne, *Scire feci I. S.*
infranom^s, quod sit coram, &c. but hee
must also warne (or give knowledge
to) the partie Defendant) that hee ap-
peare in such a Court at such a day, and
at such a mans fuit, there to doe that
which

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which the Writ requireth : and then his Returne must be, *Scire feci, &c. ad essend' coram, &c. ad faciend', &c. pro ut istud breue requirit.*

Also that garnishment of the defend. must be by (or in the presence) of two others, & must be so returned together with the names of the Garnishers to be set downe in the Returne, *ut supra.*

Also in the returne of the Garnishment by C.D. and E. F. these words, *Probos & legales homines*, seeme to be materiall, for else the Garnishers may be attainted or outlawed, &c.

The Sherife returneth, *Scire feci heredibus & terra tenent'*, without naming their names, it is not good.

In a *Scire facias*, *I. S. Magistro Collegij, &c.* the Returne was, *Scire feci, Magistro*, without naming him, it is voyd.

In a *Scire facias* to execute a Iudgement or Fine, the Sherife must returne the names of the Summoners and Veyors.

In a *Scire facias* the Sherife may returne, *Quod Breue tarde venit, &c.*

In

In a *Scire facias* against two, the Sherife returned, *Scire feci* the two, *modo & forma prout istud Breue exigit &c.* and it was holden good, though he returned not severally *Scire feci*.

In a *Scire facias*, it is a good return, That the partie is dead.

So in a *Scire facias* to haue return of Cattell, it is a good returne, that the Cattell are dead.

In a *Scire facias* against the husband and wife, it is no good Returne, That they are diuorced. *Hic cap. 36.*

Against a Parson, it is a good returne, that the Parson had resigned his Benefice before the Writ came to him.

In a *Scire facias* against two, the Sherife may not returne, That one of them was garnished, and that the other *Nihil habet*: for though hee hath nothing, yet the Sherife might haue garnished him by his person. *Nibil.*

And so note that in a *Scire facias* the Sherife may garnish the partie by his person, or vpon his lands, or by his goods. *Quare* how? It seemeth by Attachment of his goods.

And

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And therefore in a *Scire facias*, where the Sherife returneth, *Nihil habet in Ballina mea per quod ei scire facere possim*, He must returne further, *Neque est inuentus in eadem*.

Nulli sunt Executores de I. S. infra nom^o, neque admin^o bonorum & catallorum, qua fuer^t eiusdem I. S. Nec habet neque tenent^r terrarum & tenementorum qua sua fuer^t in ballina mea, quibus aliquo modo scire facere possim, this is good.

Note when the Shsrife vpon the *Scire facias* warneth one to appeare, &c. that properly is called Garnishment.

And if the Sherife shall returne garnishment where no garnishment was made, he is punishable.

CHAP. 76.

Retorn^r de secunda Superoneratione.

W Here the first Admeasurement was made before

fore the Iustices, *scz.* where the Writ was remoued before them out of the County Court,) there vpon this Writ *de Secunda superoneratione* (directed to the Sherife to enquire of the second surcharge,) the Sherife first ought to summon the parties to be before him at the time of his Enquiry.

Then he ought to goe in person to the place, &c. and to make his inquiry by a Jury, in the presence of the parties (if they will come and appeare) that so they may shew and deliuer their euidence and proofes to the Jury.

And if vpon this Enquiry the second surcharge be found, the Sherife ought to returne the same Inquisition into the Court of the Common Pleas, by Indentures vnder his owne Seale, and the seales of the Iurors.

And here the parties may haue their challenge to the Enquest, either to the Polls, or to the Array.

2. But where the first admeasurement was made before the Sherife in his County Court, (*scz.* where the Writ was not remoued,) thereupon this Writ

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Writ *de secunda superoneratione*, the Sherife needeth not to summon the parties, &c.

And yet here also the Sherife must enquire by a Jury, (of the second surcharge:) and in both cases the second surcharge being found vpon this Enquiry, the Sherife must further enquire of the cattel so put vpon the Common about the due number, or of the value of them; and must returne the same also in his Inquisition, by indenture, &c. as aforesaid.

But here the parties shall not haue their Challenge to any of the Iurors.

Note that vpon this Writ *de Secunda superoneratione*, the Sherife in both cases (scz. whether the first admeasure-ment were made before the Iustices, or before the Sherife in his County) is to goe in person to the ground surcharged; And he must cause the Jury to see the same ground, and to see the number of the cattel of the defendants which are put thereupon; and then the Sherife may make his Enquiry elsewhere.

And

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And the Cattell put by the Defendant vpon the common about the due number, shall be forfeit to the King in both cases.

And the Sherife vpon his account in the Exchequer, shall in both cases bee charged either with the Cattell, (as forfeit to the King) or else with the value or price of the same cattell: and the Sherife vpon his account also shall bee examined vpon his oath, how many Cattell of the Defendant were found vpon the same ground about the due number.

Note also, that if the writ were not remooued, but remaineth in the Countie court, there the Def. cannot auouch to warrantie, nor haue the view, nor other such aduantages before the Sherife.

V

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CHAP. 77.

*Retorne Brevis Originalis
in Trespasse.*

Plegij de Prose- { *Ioh. Doo.*
quendo. { *Rich. Ros.*

And if the Defendant be sufficient,
then thus:

Nihil.

Infranom' I.S. at- { *P.R.*
tachiat' est per { *I.W.*
Plegios

Or thus:

*Infranom' I.S. attachiat' est per unū
Bonem pretij 20 s.*

But if the Defendant bee insuffi-
cient, then thus:

*Infranom' I.S. nihil habet in balliva
mea per quod attachiari (vel distringi)
potest.*

And in Trespasse, *Nihil habet, &c.*
is a good Returne, without saying,
*Nec habuit post receptionem Brevis, or
die quo, &c.*

Retorne

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*Retorn^{us} Brevis ad inquirend^{um}
de dampnis in Trespass.*

*Executio istius brevis patet in qua-
dam Inquisitione huic brevi annex^a.*

A.B. Armig^{us} Vic^{us}.

*Inquisitio. &c. qui dicunt super Sa-
cramentum suum, Quod W.B. & A.
uxor eius, in dicto breue nominat^{us} susti-
nuerunt dampna occasione transgressi. in
eodem breui specificat^{ur} (ultra misas &
costagia suas, p^{er} ipsos circa feci^{ti} suam in
hac parte opposit^{us}) ad x^{vi}.s. Et pro mi-
sis & costag^{is} illis ad 6.s.8.d. In cuius rei
testim^{us}, &c.*

In this writ to enquire of damma-
ges in an action of Trespass, the Iurie
may not nor cannot find that no Tres-
pass is done; neither may the Sherife
make such a Returne.

But if the Iurie wil find no damma-
ges, there the Sherife may make his re-
turne accordingly, scz. That the Iurie
found or gaue no dammages.

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CHAP. 78.

Retorne de Venire fac' defend',

Virtute istius brevis, &c. *Venite feci infranom' I.S. coram, &c. ad diem infracont' put interius mihi precipitur.*

*Infranom' I.S. attach' } I.Fen.
est per Pleg', &c. } R.Den.*

Alias.

*Infranom' I. S. attachiatus est es-
send' coram Iustic' infra script' (tali die,
&c.) ad certificand' secund' formam
huius brevis per } P.R.*

Pleg' } I.W.

*Infranom' I.S. nihil habet in ballina
mea per quod potest attachiari, vel ubi
eum Summonire possum.*

For vpon the *Venire facias*, if the
Defendant bee sufficient, the Sherife
may returne him summoned or atta-
ched.

Retorn' de Venire facias Iurator'.

*Executio istius brevis patet in quo-
dam*

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dam pannello huic breui annex.

A.B. ar' Vic.

*Nomina Iurator' inter I.C. Querens
& D.F. Def. in placito transgres. &c.
(or Debiti, &c.)*

Then write downe the names of
twentie foure Iurors, thus :

<i>R.W. de E. Gen.</i>	§	<i>Et sic panned.</i>
<i>F.C. de W. Yeoman.</i>		<i>ad nume-</i>
<i>P.R. de B. Yeoman.</i>		<i>merū 24.</i>

<i>Quilibet Iurat' præd per se</i>	§	
<i>separatim, manucaptus</i>		<i>I.D.</i>
<i>(or attachiatus) est per</i>		<i>R.R.</i>
<i>Pleg'</i>		

A.B. armig' vic.

And yet it seemeth not needfull, to
returne *Manuaptores* here.

But vpon this writ the Sherife must
necessarily returne twentie foure.

Also the whole Iurie must necessa-
rily bee of such as dwell within the
Shire, &c. See *hic cap. 85.*

The Sherife must not returne *Veni-
re feci, &c.* but he must returne, *Exe-
cutio istius breuis, &c. vt supra.*

Vpon the *Venire fac' Iurator'*, the
Sherife shall return no issues; but vpon

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the *Distring'*, or *Habeas Corpora Iurator'*, he must returne illues. *Hic cap. 90.*

If any of the Iurors be misnamed either in their Christian name or Surname, it is erroneous.

The Sherife shall returne no Iuror without some true and certaine addition. *Hic cap. 85.*

Hee shall not returne the same persons which haue passed in a former enquest for the same cause.

He must returne the name of the Iurors in a schedule, and not vpon the backe of the Writ.

And if the parties shall admit a *Visne* (or such a Town to be) although there be no such Towne, yet the She-may not returne that there is no such Towne; but he ought to make his Pannell *de Corpore Comitatus.*

Retorn' de Habeas Corpora Iurator'.

Executio istius brevis patet in quodam Pannello hinc breui annex'.

A.B. Armig' Vic'.

Nomina

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Nomina Iurator' inter, &c. as before
vpon the *Venire fac'*.

Quilibet Iurator'
prad' per se se-
paratim Ma-
nucaptus est per

I. D.
R. R.

Exitus eorum cuiuslibet. x. s.

Note that here issues must be returned vpon euery Iuror, See how much shall be returned vpon them in issues.

Hic cap. 90.

Where the old Sherife returned a Iuror in issues, the next Sherife may not returne him *Nihil*, &c. See *hic cap. 44.*

Also the Sherife must returne them attached; and not to returne *Quod habet corpora eorum.*

Vpon the *Habeas Corpora Iurator'*, if any of them be dead, the Sherif may returne them *Mortuus*: and if after a *Distring' Iurat'*, or a *Decem Tales* shal goe out, the Sherife may returne that others of them are dead.

Vpon the *Habeas Corpora Iurat'*, the Sherife may returne *Manucaptors*

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(or Pledges) vpon the Iurors, as a-
boue.

But that is not required (nor best)
in the first *Venire fac' Iurator'*, nor in
the *Decem tales*, or *Octo tales*.

This *Habeas Corpora* is to bring in
the Iury (or so many of them as refu-
sed to come, or did not come, vpon the
Venire facias) for the triall of a cause
brought to an illue.

Retorn' de Distring' Iurator.

*Executio istius breuiis patet in quodā
Pannello huic breuii annex.*

And then set downe the names of
the Iurors, *vt supra*.

Manu captor' sur' praq' } I. D.

& eorum cuiuslibet. } R. R.

Exitus eorum cuiuslibet. x. s. (or more
according to the Statutes, which see *hic*
cap. 90. 91.

It seemeth also that the Sherife ought
to returne Pledges of the Manu captors
in this manner following.

Quilib' Manu captor' } I. S.

praq' attach. est p' Pleg'. } W. A.

So that vpon the *Distring' Iurat'*,
the

the Sherife must returne the names of the Iurors, and the names of the Manucaptors of the Iurors; and issues vpon the Iurors; and also the names of the Pledges of the Manucaptors; and that without all these the Procelle is not serued.

Vpon the *Distring' Iurat'*, the Sherife returned *Nihil habet, &c.* vpon one of the Iurors, this is not good.

Vpon this Writ the Sherife returned, that as to some of the Iurors hee serued the Writ; and as to the rest *Mandauit balliuo Libertatis, &c.* but the Sherife was amerced, for that the Writ colud not be serued by two. *hic cap. 39.*

Vpon the *Distring' Iurat'*, the Sherife may returne *Tarde*, in this manner.

Quod distringend' I. M. & alios Iurator' infra script' essent coram Iustic' ad diem & locum infra content' istud breue adeo Tarde mihi liberat' fuit, quod propter temporis breuitatem Executionem inde facere non possum ad presens. Sed de nouo apposui Decem tales

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tales, vel Octo tales, ut proprium sequit'
prout in isto breui mihi pracipitur. A.C.
D.E.F.G. &c.

Note that vpon the *Habeas Corpora Inrotor'* and vpon the *Distring' Inrotor'*, the Sherife ought to returne the names of al that were in the *Venire facias*; and if any of them be dead, hee may returne them *Mortuum*.

And vpon the *Habeas corpora Inrotor'*, as also vpon the *Distring' Inrotor'*, the Sherife must returne reasonable issues according to the Statute in that behalfe. See *huc cap. 90. 91.*

CHAP. 79.

Returne de Summonis in vasto.

PLegij de pro- { *Ioh. Doo.*
sequendo. { *Rich. Roo.*
Summonitores { *I. W.*
infranom' I. S. { *W. C.*

Et ulterius ego A.B. armiger' vic' com'
infrascript' Iustic' infrascript' certifico,
Quod post summonis' pradiet' scz. (tali
die

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die & Anno) infra scr^o existent^r die dominico immediate post diuinum seruic^o in ecclesia parochiali de B. infra spec^o. Nulla pradicat^r ad tunc ibidem existente, apud maxim^o vsuale ostium ecclesie parochialis illius, infra quam quidem parochiam tenementa infra scr^o iacent & existunt, Proclamari feci summoni^o pradi^o secundum formam statuti in huiusmodi casu edit^r & prouis.

A. B. armig^r vic^r.

Note that first the Summons must bee made vpon the land wasted ; and after the Sherife must proclaime the Summons at the Church doore of the parish where the land or house lyeth ; and then hee must make his returne of all as aforesaid, *hic cap. 102.*

After the Summons &c. (if the defendant appeareth not) there shall goe out an Attachment, and after that a *Distringas* : And after the Distresse, vpon the default of the defendant in not appearing, there shall go out a writ to the Sherife to enquire of the wast, &c.

Vpon the Attachment, or *Distringas*

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gas, the Sherife may returne the defendant *Nihil habet &c.* vpon which returne also a writ shall goe out to enquire of the wast.

Also in wast at the *Distringas*, the Sherife returned that the defendaunt was distrained, & returned two mainpernors, and for that the defendant appeared not, a writ went out to enquire of the wast, which beeing found the plaintife recouered &c. And the defendant brought his writ of *Disceit* against the Sherife, for returning that he was distrained, whereas he was not.

In wast the Sherife returned the name of the partie in false Latin, *Iohannes* for *Iohannem*, yet the returne allowed.

*Return' de breue ad inquirend'
de vasto.*

*Virtute istius breuis mihi directi.
Ego A.B. armig' vic' com' prad' (tali
die & Anno) in propria persona mea
accessi ad tenementa vastata, (or ad lo-
cum vastatum) in dicto breui specific'.
Et apud S. (scz. the Towne or one of
the*

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the Townes wherein the tenement, or place wasted lyeth) feci inquisitionem &c. prout istud breue in se Exigit & requirit.

A.B. armig' vic'

Residuum executionis istius breuis paret in quadam Inquisitione huic breui annex'.

Inquisitio &c. Qui dicunt super sacrament' suum; Quod I. S. in dicto breui nominat' fecit vastum (vendition') & destructionem in omnibus in eodem breui specificat' (or in domibus & boscis predict', or in tenementis & terris in breui predict' specific') viz. in permittendo vnam aulam pretij xl.s. duas Cameras pretij 3. l. & vnum stabulum pretij xx.s. esse discoopertum pro defectu reparationum earundum domorum, per quod grossum maeremium (inde, or) earundum domorum per tēpestates pluviales super illas discendentē deuenerunt putrida & corrupta, &c. contra formam prouision' in eodem breue Contem'. In cuius rei testimoniu, &c.
Inquisitio, &c. qui dicunt, &c. quod Aliter.
I.S.

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I.S. in dicto breui nominat', fecit vastū & destructionem in bosco in quo in breui præd' fit mentio. viz. in bosco prædict' succidit xx. quercos pretij cuiuslibet, ij.s. partem inde vendend', & partem inde asportand' ad exheredationem W. F. infranom', & contra formam promissionis in eodem breui specific'. Et ulterius inrat' præd' super Sacram' suum; prædict' dicunt, Quod prædict' I.S. nullum maius (or nullum aliud neque plus) vastum (vendition' seu destruction') in bosco (or domibus) prædict' fecit, prout eis aliquo modo constare potest.

In cuius reitestimon', &c.

Note that in this writ to enquire of Wast, the Sherife is made a Iudge of the cause, and therefore he must goe in person to the place wasted, &c. to view the same wast.

And though it bee within a Franchise, yet he ought himself to enter the Franchise, and to go to the place wasted, and to execute this writ, and may not returne, *Mandans ballino libertatis* in any case.

He must make enquirie of the Wast
by

by a Iurie of twelue men.

If the places wasted lie in seuerall towns, yet he (together with the Iury) must goe to euerie towne and to euerie place wasted, and to view the same (or at least hee must cause the Iurie (or some of them) to goe & see the wast in each towne and place;) and then he may make his Enquiry in any one of the townes where the wast was committed or assigned; And his inquisition taken at one of the townes will serue for all.

And he must make his return, *Quod virtute breuis, &c. Accessit ad Tenementa* (or *loca*) *vastata, scz.* to all the Townes in which the Wast was assigned, and at A. (beeing one of the townes) *fecit Inquisitionem, &c.*

Wast committed in A.B. and C. the Sherife must returne, *Quod accessit ad Tenementa infra scripta.*

He may not returne, *Quod accessit ad villam*, but *ad locum.*

Where the Sherife shall doe his Office well in one towne, and not in the other, a new writ must be awarded and
all

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and all enquired of *de Novo*, for all the Inquisition must bee made at one time, and by one and the same Iurie.

Also in such Inquisition the Iurie must find the wast in certaine, and also the value thereof, (in euerie particular) *scz. succidendo* so many Okes, &c. *ad valenc'*, &c. and yet they must find but the single value onely.

He must also in his return set down the certaine day when the Inquisition was taken.

In wast against two, the Iurie may find that the one of them made the Wast, and not the other, and so the Sherife may returne it.

But in wast against two, of Tenements which they held for life of the lease of the Auncestor of the Plaintife, the Iurie found that they held not the Tenements for life of the Lease of the Auncestor of the Plaintife, and the Sherife returned it accordingly, and was therefore amerced, *scz.* for taking such a verdict without warrant.

The Iurie vpon the writ to enquire
of

of waſt, may find that no waſt is done, and the Sherife may returne it, if it be true: but otherwiſe it is if the waſt be confeſſed by the Defendant.

In waſt againſt Tenant for yeeres, the Plaintife recovered the place waſted, and dammages, and the Sherife returned that no bodie came (of the part of the Plaintife) to receive the ſeiſin; and further, that the Defendant had no goods, &c. whereupon he could leuie the dammages; the returne is good. But yet the Sherife might haue deliuered the terme to the Plaintife, in execution for his dammages.

Vpon a Writ to enquire of Waſt, if the Iurie (after their charge) ſhall depart without giuing any verdict, the Sherife may returne the ſame departure and contempt of the Iurie. *Quere* if the Sherife may not aſſeſſe a Fine vpon them for ſuch their departure, & returne the ſame.

Now when the Sherife hath made this his enquire of the Waſt, then muſt he returne the Inquiſition before the Juſtices of the Common Plees, and the

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single value of the Wast, and then the Iustices shall taxe the wast, &c.

Note that the Defendant is to answer for (and the Iurie are to find and value) as well the wast committed before the writ purchased, as the wast made after.

Vpon this Inquisition taken before the Sherife, the Defendant may come and haue his challenge to the Array, although that the Inquisition bee taken by default.

Vpon a *Nihil dicit* in Wast, a Writ went out to the Sherife, commanding him, *Quod in propria persona sua accedat ad terram vastatam*, to enquire of the damages; here it is not needfull that the Sherife should goe thither in person, for that is onely to be done *In vasto inquirendo*.

What the Sherife may doe in a writ of *Estrepiement* in Wast, See *hic Cap. 58.*

CHAP. 80.

Retorn' de Withernam.

Virtute istius brevis, &c. Cepi duas
vaecas de auerijis infranom' I. S.
ad valenc', &c. (or duas patellas areas
de bonis infranom' I. S.) Et ea W. B. in-
franom' deliberari feci in Withernam
salue custodiend' quousque praed' I. S. Ca-
talla praed' W. B. deliberare voluerit,
prout istud breue in se exigit & requi-
rit.

Virtute, &c. Cepi in Withernam du-
as bouiculas de auerijis infranom' I. S. *Aliter.*
Qua aueria duci feci ad H. in Com'
praed' Salue & secure ibidem custodiend'
secund' exigentiam istius brevis.

Infranom' I. S. Nulla habet bona ne- *Nihil.*
que Catalla in balliua mea qua in Wi-
thernam capere possum, prout, &c. Nec
aliud habet in balliua mea p quod potest
Attachiari; Nec est inuentus in eade.
But quare of these two last, scz. whe-
ther the Sherife may attach the defend-

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dant without new proces, or some special clause in this Writ.

Also vpon this Writ the Sherife may returne *Tarde*.

And note that the beasts or goods taked in *Withernam*, the Sherife may either deliuer them to the Plaintife to keepe, or may keepe them himselfe; or may driue or send them to any place within his County to be safely kept, *quonsque*, &c.

The Sherife may returne that he did not deliuer the cattell to the Plaintife, for that he was not in the Country.

Though the *Repleuin* be of pots or pans, &c. yet vpon the *Withernam* the Sherife may take any cattel or other goods.

The Sherife may take goods or cattell, to the double value; yea the Sherife may take in *Withernam* goods of any kind, of any number, and of any value reasonable in his discretion; or by the estimation of neighbours.

Plus hic cap. 73. & 114.

CHAP. 81.

Retornes of Writs and Com-
missions out of the Chan-
cerie.

Virtute, &c. Omnia breuia mihi Adiournament
deliberat' seu deliberand' coram Iu-
stic' infrascr' apud Westmon. in Octab.
S^{an}cti Hillar' returnabil' siue return' ha-
beo coram Iustic' infrascr' apud W. die,
&c. una cum omnibus Executionibus
eorundum.

Et ulterius ad Comit' meum tent'
apud Cantabr' (tali die & anno) pub-
lice Proclam' feci, quod partes in eisde
breuib' nominatis, dies suos coram
Iustic' apud W. ad prefatum termi-
num conseruarent, prout istud breue,
&c.

Virtute, &c. Indictamentum illud
unde in dicto breue fit mentio, (or om-
nia & singula Indictament' R.B. infra-
nominati) una cum omnibus idem In-
dictament' tangentibus, in Cancellaria

Certiorari.

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*dicti Domini Regis mitto in quadam
schedula huic breui Consui.*

*Retorn' de Proclam' extra
Cancellar'.*

*Virtute, &c. publice proclamari fe-
ci' infra balliuam meam quod infranō
I. S. sub pœna legiant' sua, coram Do-
mino Rege in Cancellar' sua ad diem in-
fracont' compareat, prout interius mi-
hi precipitur. Neenon dicto Domino
Regi certifico quod infranom' I. S. Non
est inuentus in ballina mea.*

* Or such Proclamations would be
made in diuers seuerall places, (and at
diuers seuerall times) within the same
shere, and be returned accordingly.

*The Returne of a Dedimus pote-
stat' to take the Oath of a
Sherife.*

*Virtute istius breuis nobis directi
(tali die & anno, &c. infrascr') recepi-
mus Sacramentum infranom' A. B.
vicecom' Com' C. de Officio illo bene &
fideliter facient' iuxta formam cuius-
dam*

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*dam schedula presentibus annexis prout
interius nobis precipitur, Ac prout
istud breue in se Exigit & requirit.*

W. S. }
B. T. } *Commis.*

*Retorn Securitatis Pacis, sur.
Supplicauit.*

*Ego A.B. ar' vic' Com' infrascr' Do-
mino Regi in Cancellar' sua certifico
quod I.S. infranom', Nullam mihi in-
uenit securitatem pacis de qua interius
fit mentio, sed in prisoa Domini Regis
sub Custodia mea ad presens residet.*

*Ego, &c. misto coram Domino Re. Aliter.
ge in Cancellar' suam tenorem securita-
tis pacis, de qua in dicto breue fit men-
tio, sub sigillo meo, prout istud breue
in se exigit & requirit: Qua quidem
securitas huic breui est Consuet.*

Vpon a Supplicauit directed to the
Sherife, and Iustices of Peace of that
County, if it be deliuered to the She-
rife, he onely ought to execute it. scz.
he is to grant out his warrant, to bring
the party before him alone, to find
Sureties for the Peace, and he is further

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to doe in curry behalfe according as
the Writ directeth him.

CHAP. 82.

*Retorne of Proces out of the
Eschequer.*

Retorn' de Capias, extra Scaccarium.

Corpus.

Virtute istius brevis mihi directi
Baronib', infrascriptis certifico,
Quod Capi corpus infranom' I. S. cuius
corpus coram dictis Baronibus parat'
habeo ad diē infracontent'. See hic cap.
53. Necnon (tali die & anno infrascr')
Capi in manus dicti Domini Regis, no-
mine distriction' certas terras & Ten'
infranom' I. S. iac' & existen' in B. an-
nui valoris C.s. prout istud breve exi-
git, &c.

Terre.

Aliter de terra

Virtute, &c. certifico quod (tali die
& anno infrascr') Capi in manus Do-
mini Regis infrasp' Maneriu infrascr'
cum ptin', prout interim mihi preci-
pitur.

Et

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*Et si sit cum Inquisit' p annuali valore
tunc breue pradictum retineb' est sic.*

*Residuū Execution' istius breuis pa-
tet in quadā Inquisit' huic breui annex.*

A. B. Armig' vic'.

*Inquisitio Indent' Capta apud L. in
Com' prad' (tali die & anno) coram A.
B. ar' vic' Com' prad' virtut' breuis Do-
mini Regis mihi directi & huic Inquis.
annex' p Sacram' B. C. D. E. (Sc. ad
numerus xli. 'turator') Qui dicunt
super Sacram' suum, Quod, &c. (as the
matter is.)*

Retorn' de Seisur' nomina. District'.

*Virtute, &c. (tali die & anno) in Terre.
manus Domini Regis seishui (or Cepi)
Maner' de B. infrascr' cum pertiñ in S.
in Com' infrascr' quod quidem Maner'
est clari annui valor' in omnibus exiti-
bus ultra repris. xx. l. de terris I. S. in
schedula huic breui annex' nominat.
Ac Cepi etiam in manus eiusdem Do-
mini Regis unum bonem pretij xx. s. no- Boni.
mine districtiōis, de bonis & Catallis I.
S. in schedula prad' nominat' prout istud
breue in se exigit & requirit.*

Vide

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Vide hic cap. 56, how the Returne shall be where he is sufficient.

Nihil. Nullum tale maner^s, nec vlla terra seu tenementa cognit^s per nomen de E. iac^s in Com^s C. unde distringere possum, &c.

Aliter. Infranom^s I.S. nihil habet in manerio, terris & tenementis infra script^s per quod ipsum distringere possum, prout, &c.

Aliter. Infranom^s I.S. nihil habet in ballivaria mea, &c. Nec est inuentus, &c.

Aliter. Et ulterius Baron^s infra scr^s certifico, Quod nulli sunt executi^s vel admin^s, bonorum & catallorum qua fuer^s infranom^s I.S. unde ipsos aut eorum aliquem distringere possum.

Homage. Return^s Brevis de respect^s homage al Distringas.

Manu captores } *Ioh. Doo.*
Infranominat. I.S. } *Rich. Roo.*
Exitus xx.s. (more or lesse, according to the value of the land.)

Return^s

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Retorn' Breuis de Quis est tenens.

Virtute, &c. certifico, Quod W.B. & Quis tenens.
M. vxor eius sunt tenentes tertia partis
Manerij infrafer' in tres partes diuisas,
& C.A. M.A. & I.A. filia I.A. de-
functi sunt tenentes secunda partis ma-
nerij infrafer' in tres partes diuisas.
Et alia tertia pars Manerij infrafer',
remanet in custodia (or manu) Domi-
ni Regis, ratione minoris atatis P.A. fi-
lij & hered' predicti I.A.

Manucaptor' pranom' } Ioh. Deo.
W.B. & M. vxor' eius. } Rich. Roo.

Retorn' quando aliquis ostendit

Vic' Tallia.

Tallia.

Virtute, &c. certifico, Quod I.S. in-
franom', post receptionem istius Breuis
mibi ostendit tallia sua, de solutione fir-
ma sua interim specific': Ob quod pra-
fixi ei diem essendi coram Baron' infra-
fer' ad faciend' & recipiend' super
tallia predict' iuxta tenorem huius bre-
uis. Et ideo lenatio summi' interim spe-
cific'. Superseu' prout mihi interim pra-
cipitur.

Retorn'

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Retorna brevis per collect' decima & quindecima extra Scac'.

That *A.* refused to bee Collector of the Taske, or to seale the Bond. See my booke at large.

That *C.* hath sealed a Bond for the Collection thereof, *ibidem.*

Commorans in alio Comitatu.

Infranom' I.L. est Vic' Com.E. Et est commorans in dicto Comitatu E, Et non est inuentus in Ballina mea.

De vendition' exponas.

Baron' infrascr' certifico, Quod illa centum Oves in hoc brevis specific', vendition' exponere non potui, eo quod. adhuc remanet in manibus infranom' E. L. nuper Vic' Com' Cantabr': & nunquam mihi præsai' nunc Vic' adhuc per præsatum, nuper Vic' deliber' fuer'.

A.B. Armig' Vic.

Aliter

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Virtute istius brevis mihi directi de die in diem vendis' exposui illa bona & catalla ad valenc' C.s. residuum de 8.li. qua nuper de bonis & catallis, terris & tenement' I. S. infranom' cepi, & inde vendidi ad valenc' 40.s. Quos quidem 40.s. ad diē & locum infracont' parat' habeo ad reddend', &c. prout interius mihi precipitur. Et residuum bonor' & catallor' prad' adhuc penes me remanent innendis' pro defectu emptorum.

CHAP. 84.

The Sherifes Returne upon a precept from Iustices of Peace, to Enquire of a Riot, or Forcible entrie, &c.

Virtute istius Præcepti mihi directi venire feci coram Iustic, infra scriptis, ad diem & locum infracont. 24. probos, sufficientes, & legales homines de balliva mea, prout interius mihi precipitur.

Residuum executionis istius præcepti patet

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patet in quadam schedula huic warran-
to annex^a.

cantabr.
Schedula.

A.B. Armig^r Vic^r.

Nomina Iurator^u ad inquirend^u pro
Domino Rege de quibusdam ill^{is} citis ag-
gregationibus & riotis, &c. apud Abb^e
magna commissis, Summon^u ad essend.
coram Iustic^{is} Domini Regis apud Lin-
ton in Comit^u praed^o, (tali die & anno)
secund^u exigenc^{ia} cuiusdam warranti
huic schedula annex^a.

And then vnderneath write downe
the names of the twentie foure thus :

T.B. de Lynton	S	Et sic de cate-
R.B. de eadem.	S	ris, ad nume-
I.P. de H.	S	rum 24.

Quilibet Iurator ^u praedict ^u separatim per se attachiatus est per pleg ^u	}	Ioh. Doo. Rich. Roo.
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Exitus eorum cuiuslibet xxj.
A.B. Arm^r Vic^r.

CHAP. 85.

Returne of Iuries.

Iuries are of two sorts, *scz.* for Enquiry, or Triall.

For Enquiry, the Sherife vpon the precept of the Iustices, is to summon, and to returne the grand Iuries to the Assises or Gaole deliuery, and to the Quarter Sessions, &c. *Hic ca. 46, 47.* For Inquirie.

Hee is likewise to summon and returne Iuries (for Enquiry) before the Iustices of peace at their priuate Sessions (*hic cap. 84.*) as also before other commissioners, & before Escheators, & Coroners, and Clerks of the Markets, vpon their severall Precepts directed to him for that purpose. *Hic Cap. 83. & 100.*

Iuries for triall (betweene party and partie) the Sherife likewise vpon the Kings writ is to summon them, and to returne the pannell of their names, at the day and place in the writ

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Writ limited, together with the Writ,

And for these Iuries for tryalls, the Sherife ought to make their Pannels so, as that the parties may haue Copies thereof before their triall. And these coppies of Pannells shal be indented and deliuered to the parties (vpon demand) before the fixing of the Iustices.

Baylifes of Liberties must returne (to the Sherife,) the names of persons by them impannelled, eight dayes before the Assises, &c.

The Sherife is to summon, (writne, or distreine) all such persons as he mindeth to returne vpon any Iury (either for enquiry, or triall:) And if the Sherife shall returne any Iuror not lawfully summoned, &c. the Sherife is punishable.

So if the Sherife shall summon, &c. any Iuror, and shall not returne him, he is punishable.

Note are to be put vpon any Iury, but such onely as were summoned to the same at the first. And yet Pannells returned before Iustices of Gaole delierie,

liuery, or before Iustices of Peace (in their open Sessions) for Enquiry, may be reformed by the Iustices; And the Sherife ought to returne the Pannels so reformed. And so of Pannels for tryall, vpon a *Tales de Circumstantibus*; granted by the Iustices, &c.

Also Iurors (aswell for Enquiry, as for trial) shall be returned by the Sherife without any denomination of any person whatsoever, other then the Sherifs sworne Officers, &c.

And the High Sherife by his oath must make the Pannels himselfe.

Now what manner of persons Iurors for Tryalls shall be.

1 First they must bee *Probi; & Legales homines.*

Probi, scz. such as are not discredited (or disabled in their credits) in law, by attainder, in conspiracie, in atteynt; *Decies tantum*, periurie, subornation of periury, concealement, or such like.

Legales, scz. such as are not vtlawed, abiured, condemned in a *Præmunire*, or atteynted of treason or felony.

2 They must be such as are neighbors;

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bors, sufficient, nor suspected, nor labored.

3. They must also be *Liberi, scz.* Freeholders: Except where an *Alien* is a party (there the one halfe of the Enquest shall be of *Aliens*, though they haue no land) or in some few other cases.

But the Sherife ought not to returne vpon any Iury, any Baron of the Parliament.

Nor any of the Clergy, though they haue Lay fee.

Nor tenants in ancient *Demefne*; except they haue other lands.

Nor Officers of the Forrest.

Nor any of the Coroners of the Countie.

Nor any of the Officers, or seruants belonging to any Sherife, Vndersherife, Coroner, Steward of Franchise, or Gaoler.

Nor any person being about the age of lxx.

Nor any person decrepit.

Nor any persons diseased at the time of their Summons.

Nor

Nor any Enfant vnder the age of xxj.

Nor any person dwelling out of the County.

Nor any person hauing a Charter of Exemption, if he shall shew the same to the Sherife.

Nor any *Alien*, except where an *Alien* is party to the suite.

Nor any person which is of kindred to either partie, Plaintife, or defendant.

Nor he which is a seruant, or hath a yearely fee of either party.

Nor he which is within the distrefe of either party.

Nor he which maintaineth either party in the same suite.

Where a Peere of the Realme is party to the action, there must bee two Knights (at the least) returned of the Jury.

Also vpon triall of any issue, the Hundredors, Sherife must returne in euery Pannell (vpon the *venire fac.*) Sixe Hundredors, *scz.* Sixe sufficient persons of the Hundred where the land in controuer-

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He lyeth, or where the fact is supposed to be done.

Addition,

The Sherife shall returne no Iuror without a true Addition of his dwelling place: or some other Addition by which he may be knowne.

And baylifes of Liberties shall deliver (vnto the Sherife) vnder their hands, the names of all such persons within their Liberty, as are meete to be Iurors, with the true addition of their dwelling place: and the Sherife must returne it accordingly.

Iurors for Enquiry, ought also to be *Probi, & Legales.*

CHAP. 86.

Iurors their number.

VPon every *Venire facias*, for the impannelling of a Iury, the Sherife must returne 24. neither more nor lesse.

In a Writ of Attaine, the Iury (called the Grand Iury) must be 24.

And

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And the Sherife must returne but so many. *Hic cap. 51.*

And in all other actions, trialls, or enquiries, the Sherife vpon any Writ or precept directed to him for returning of a Iury, hee is to impannell and returne xxiiij,

The Iury in a Writ of Right (called the Grand Assise) must be of foure Knights (or of others in default of Knights) summoned and returned by the Sherife, which 4. Knights, &c. are to chuse a Iury of xij. vnto them (and so in all here must be xvj.) all which are to be summoned by the Sherife, vpon a writ to him directed, and their names to be returned.

At every Gaole deliuey, and Sessions of the Peace, the Sherif is to return 24. Iurors for enquiry, out of every Hundred; besides 24. for the body of the County, *hic cap. 46. & 47.*

Vpon a Precept to the Sherife from Iustices of Peace, out of their Sessions, to return before them a Iury to inquire of any riot, or forcible Entrie, the Sherife must returne 24.

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But vpon issue ioyned vpon prescription of Common in a great wast lying in two Counties, and a triall awarded *de Viroque Comitatu*, if in each Pannell twelue onely be returned, it seemeth to be good.

Juries for enquire in the Sherifes Turne, shall be of twelue at the least.

And so in all Enquiries made (or Inquisition takē) by the Sherife, Escheator, or other commissioner, the same ought to be by 12. Jurors at the least.

And so of Trialls in the Countie Court by a *Iustices*, the same ought to be by twelue men.

Note that where seuerall Indictments are preferred against diuers seuerall prisoners, the Sherife may returne one and the same Iurie two or three seuerall times, to trie those prisoners, so as the euidence against all the prisoners be deliuered all at one time.

No Sherife or other Officer, shal take any reward (or promise of reward) for sparing, not warning, or not returning of any Iuror, for triall of any issue, *sub pena s. li.*

The

The Sherife is to adde and annex to his Pannell, the names of such persons as shall bee impannelled vpon the *Tales*.

Note that there may be many *Tales* one after another, till the Iurie be full; as a *Decem Tales*, *Octo Tales*, &c. *Sex Tales*, &c.

But every *Tales* must bee of a lesse number than the former. And every *Tales* must bee of fewer than the principall Pannell (except in Indiements and Appeales that touch life.)

And every *Tales* must be of an euen number.

And they must bee others of the same sort that the principall Pannell were of.

Although the writ be *Venire facias xij. liberos & legales homines*, yet if the Sherife shall returne the names of twelue onely, he shall be amerced. And if hee shall returne twenty three, and twelue of them shall appeare, and giue their verdict, yet it is erroneous.

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CHAP. 87.

The sufficiencie of Iurors.

BY a statute made 21. Ed. 1. and yet in force, euery Iuror for triall of any matter within the county, must haue in freehold *per annum* ---- 40. s.

Euery Iuror for triall of any matter out of their County, must haue in freehold *per annum* at least -- v. li.

Now it is to be obserued that forty s. in those dayes, doth make at this present, at the least six pounds of our money; and therefore for the returning of more sufficient Iurors for trials, by later Statutes it is now enacted that where formerly they ought to haue forty shillings *per annum*, Now the *Venire facias*, shall haue this clause *Quorum quilibet habeat 4. li. per annū, ad minus.* And vpon such a *Venire facias* the Sherife shall returne no person, vnlesse hee may spend 4. li. *per annum*, of Frechold within the county, and

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and out of Antient Demefne. And where that claufe is left out of the *Uenire facias*, (*ſcz. quorum quilibet habeat 4.li.*) there the Sherife may return ſuch as haue any Freehold within the Countie where the Iſſue is to be tried.

But theſe laſt Statutes extends not to any Iurors to be returned in any citie or towne corporate, or in Wales.

Againe, no perſon ſhall paſſe in any Enqueſt touching life, nor in any plea reall or perſonall, whereof the debt or dammages declared, amounts to fortie Markes, except ſuch perſon haue fortie ſhillings in land *per annum*, ſo that they be challenged for that cauſe, &c. But where any Alien is a partie, one half of the Enqueſt ſhall bee Aliens, though they haue not 40.s. *per annum*.

In writs of Attaint the Sherife is to returne vpon the graund Iurie more ſufficient men, *ſcz.* if it be in plea of lands, or for deeds concerning Lands of forty ſhillings *per annum*: or in any Action perſonall of fortie pounds or more, euerie of the grand Iurie muſt haue in freehold lands *per annum* twentie

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tie marks at the least. See *hic cap.*
51.

Euery Iuror returned before Iustices of Peace to enquire of any forcible Entrie, &c. must haue 40.s. freehold *p annum.*

Euery Iuror returned before Iustices of Peace to enquire of any Riot, &c. must haue xx.s. freehold *p annum*: or in Copihold xxvj.s. viij. d. *per annum.*

Vpon a Commission to enquire of the default of Iustices of Peace and Sherifes in not executing the Statutes made for suppressling of Riots, such Iurors onely shall be returned as haue xx. pounds *p annum* at the least.

Euery Iuror returned before Iustices of Peace, to enquire of concealements of other Enquetts, must haue 40.s. *per annum.*

Euery Iuror returned before Escheators or Commissioners, to enquire of any lands, must haue 40.s. freehold *p annum.*

Euery Iuror impannelled in the Sherifes Turne, must haue xx. s. freehold

hold *p annu*: or in Copihold xxvj.
s. viij.d.

For the sufficiencie of Iurors in Lancashire, Wales, London, and corporate townes. See the Statutes.

Note that Tenant for life, yeelding a rent, with a clause of Reentry for *Non* payment, is no sufficient freeholder to be sworne of a Iury, his estate being so defeasible.

A Lease is made to B. for yeares, the Remainder to C. in fee, here C. may passe vpon a Iury for this freehold.

B. maketh a Lease for x. yeares, *absque aliquo reddendo*, here B. is a sufficient freeholder to passe vpon a Iury, for his freehold remaining.

Plus hic cap. 92.

Note that it is needfull for the Sherife to haue a booke containing the names of all the Freeholders within his County, and their sufficiencies, that so he may not onely make the Pannells according to his oath; but may also know their sufficiencie to be sureties or Pledges, &c. for others.

And besides if they retorne any Iuror

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ror in issues which is not sufficient, the Sherife may be inforced to pay their issues for them.

CHAP. 89.

Returne of issues vpon the defendant or tenant.

THe Sherife stands bound (by his oath) to set, and to returne reasonable and due issues vpon all such as be within his County (*scz.* vpon the tenants or defendants) which haue such lands or goods after their estate, to the end they may the rather appeare.

And the tenant or defendant making default of appearance (after the first attachment returned) *scz.* vpon the *Distringas*, shall loose and forfeit issues to the King.

If the Sherife shal set and return too small issues vpon the tenant or defendant, he is punishable.

When the tenant or defendant is distreined for such issues, it seemeth that the

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the Sherife ought to deliver them to the Mainpernors or Manucaptors, and if the party maketh default at his day, the Sherife shall answer for those issues in the Exchequer by the Estreats thereof made; and the Mainpernors shall be answerable therefore to the Sherife.

Vnder the name of Issues are contained, The profits of the lands, and the goods of the party. *Quid.*

1 The profits of the lands, *scz.* his rents and corne growing.

But yet for rent, the Sherife needeth not to returne that for issues, except they be then due.

And for corne growing; the Sherife must be warie in returning them for issues, for that they may be lost or spoiled before they be carried.

2 Goods, *scz.* Corne in the barne, and all moouables (except apparrell, household-stuffe, horses and their harnessse.)

And by the Stat. the Sherife ought to returne in issues vpon every detendant or tenant, so much as may arise of the *Quantum.*

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the profits of their lands within that County from the day of the *Teste* of the writ, vntill the day of the returne thereof, and the value of his goods (except *ut supra.*) But it seemeth that this Law is not now much in vse, whereby (as Master *Fitzh.* sayth) great inconvenience ariseth, & besides it is a breach of the Sherifes oath.

Otherwise at this day the Sherife neede to returne but reasonable issues: But be they neuer so great, they be forfeit vpon his default, and the party hath no remedy; and the Sherif shall be chargeable therewith being estreated. See *hic cap. 11.*

Note that with these issues the land is chargeable into whose hands soeuer it come after. See *hic cap. 11.*

CHAP.

CHAP. 90.

What Issues the Sherife must returne vpon Iurors.

BY the Common Law the Sherife was to returne no Issues vpon a *Venire fac' Iurator'*: Neither was it vsed to returne any great Issues vpon the *Habeas corpor'*, or *Distring' Iurator'*. *His cap. 72.*

But for the more expedition of Iustice, and more speedy triall of issues (by Iurors) and in some cases of Enquiry, there haue beene diuers statutes made as followeth.

1 Vpon euery first writ of *Habeas corpora*, or *Distring. Iuras'* &c. to trie any issue, the Sherife shall returne in issues vpon euery person impannelled and returned x.s. at the least. And vpon the second writ xx. s. And vpon the third writ xxx. s. &c. *Sub pena V. li.*

2 In actions of Attaine the Sherife shall

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shall returne in issues vpon every Iuror at the first *Distring.* forty shillings at the least, at the second *Distring.* five pounds. And the double vpon every other Distresse, *Sub pana xx.li.*

3 Vpon every precept from Iustices of peace to enquire of a forcible Entrie, or Riot, &c. the sherife shall returne vpon every Iuror in issues at the first precept (or day) twenty shillings, And at the second day forty shillings. And in cases of a Forcible Entry or Detainer, at the third day C. s. and at every day after double. *Sub pana xx.li.*

4 Vpon a Commission to enquire of the defaults of Iustices of peace and Sherifes, in not executing the Statutes made for the suppressing of Riots, there shall bee returned in issues vpon every Iuror, at the first day twentie s. at the second day fortie shillings, at the third day C. s. and at every day after, the double. *Sub pana 40.li.*

5 Vpon an Information vpon the Statute of Liveries, the sherife shall returne in issues at the first day twentie shillings

shillings, At the second day thirty shillings, At the third day forty shillings, and at euerie day after for euerie time to encrease them ten shillings.

What issues shall be returned vpon Iurors in London; see the Statutes, 11.H.7.21. 4.H.8.3. & 5.H.8.cap.5.

What issues shall be returned vpon Iurors in Wales, or in other Cities, or Corporate Townes, See 27.El.ca.6.

If the Sherife shall returne any Iuror in issues which is not sufficient, (or hath no land) the Sherife shall pay those issues himselfe.

If the Sherife shall returne any issues vpon any Iuror which was not lawfully summoned or distreyned, the Sherife shall forfeit double so much as the said issues returned.

Plus hic cap. 11.

No Sherife shall leuie any issues, other than such as are estreated to him vnder the seale of the Exchequer. See *hic cap. 13. & 125.*

And these Estreats shall expresse the cause of the losse or forfeiture, the tearme, .yeare, nature of the Writ or

Z Action;

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Action, and betwixt what parties the Issues, fines, and amerciaments be lost, and the Sherife in his warrants to his Bailifes, must also expresse the cause of the forfeiture.

No estreat of Issues against any Iuror, shall be deliuered, receiued, or put in vre, without such addition as is put in the originall Pannell; and no Sherife, &c. shall collect any issues so estreated, but of the right party, chargeable by the Estreat.

And note that all the Kings courts, Iustices, Commissioners, and others, shall deliuer into the Exchequer (at Michaelmasse yearely) their estreats of fines and amerciaments, assessed or taxed before them, and of all issues, &c. and from thence they shall make Procelle against the parties, to answer and satisfie the same.

Note also that these issues returned vpon the Tenant or Defendant, and vpon Iurors, and lost by them in respect of *Non* appearance, and estreated as aforesaid, shall be leuiued by the Sherife as forfeit to the King.

All

CHAP. 91.

All the lands which the Iuror had at the time of the *Vinire facias*, served vpon him, shall be liable to his issues, &c.

If the land which the Iuror had be recovered from him; or that hee had the same land but for another mans life who is dead, then the Sherife must returne this speciall matter, *Es sic nihil habet*: otherwise the Sherife cannot returne *Nihil*, where Issues were returned by him before, nor vpon the *Distringas Iuratores*, *Hic cap. 78.*

Plus hic cap. 11. that the Issues may be leuied vpon the heire, successor, purchaser, wife, Fermour, &c.

CHAP. 92.

*The chusing and returning of
Knights, &c. for the
Parliament.*

AFTER the Sherife hath receited the Writ for Summons of the Parliament, and election of the Knights, &c. before the next Countie court, the Sherife must make out his Warrants to his Baylifes (of euerie Hundred) commanding them to summon or warne the Freeholders within their seuerall Bayliwickes, to be at the next County, and there to make choice of their Knights, &c.

Or else the Sherife (after the receit of that writ) at some Quarter Sessions of the Peace, or other generall meeting of the countie, may giue publique notice thereof to the Freeholders.

*Mes si le Vic' done nul notice, ou
Summons al Freeholders. sera mischic-
ious, Et vncore semble nul remedy done.*
And

And at the next countie, & in ful countie, Proclamation shall be made by the Sherife, of the day and place of the Parliament, and that all persons there present shall attend the election.

After the Knights be chosen, (be they present or absent) their names shall bee written in a paire of Indentures to bee made betweene the Sherife of the one part, and some of the Freeholders, being chusers, of the other part : vnto which Indentures the Sherife and the Chusers shall interchangeably set their Scales, and that part of the Indentures sealed by the Chusers, shall bee tacked to, and returned (by the Sherife) with the said writ.

These Knights ought to bee chosen of persons reliant within the Shire; and must be Knights indeed, or else Gentlemen able to be Knights.

But no Sherife or Mayor ought to be chosen.

Also persons attainted of treason or felonie, ought not to be chosen knights for the Parliament.

Nor any person that is outlawed.

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Not any person in prison vpon an Execution.

Neither ought any such person to be chosen a Burgette for the Parliament.

And yet if any such person shall be chosen thereto, the Sherife ought to returne their names.

The chusers of Knights for the Parliament ought to be onely of such persons as bee dwelling within the same Shire, and such as haue fortie shillings freehold lands or tenements *per annum*, within the same Shire, the day of the date of the same writ.

Note that by the Common Law all Freemen of England had a voyce in the election of these Knights, within the Counties where they dwelt, but now they are restrained (by Statute) to such only as haue freehold lands or Tenements to the value of fortie shillings by the yeare, aboue all charges. By which words, Lands and Tenements, you must vnderstand,

First, he which hath no other Freehold but the Aduowson or gift of a Church, hee thereby can bee no chuser, &c.

ser, &c. He which hath no other freehold than comon of Pasture, can be no chuser, &c, though that be of the value of fortie shillings *per annum*.

But a freehold house, or land worth thirtie shillings *per annum*, and a comon of pasture appendant, (worth twentie shillings *per annum*,) belonging to the same house, is holden to bee a sufficient Freehold.

Otherwise of a house new erected, or erected within time of memorie; for that comon must be by prescription, except such house be worth forty shillings *per annum*, besides the Comon.

A. having fortie pounds *per annum*, letteth the same to another for life, reserving no rent, or but twentie shillings or thirtie shillings rent *per annum*, thus seemeth no sufficiencie of freehold to *A.* during the terme.

But if *A.* letteth such his estate to another for yeares, (though for diuers yeares, reserving only twentie shillings *per annum*, (or *absque aliquo reddendo*) yet here he may be a chuser, &c. for the

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freehold which is in him.

So if lands worth fortie shillings *per annum*, be letten for yeares, the remainder to *A.* in Fee simple or Fee taile, heere *A.* may be a chuser, &c. for the Freehold which is in him.

If a man hath fortie shillings rent *per annum*, or one annuitie of fortie shillings *per annum*, (issuing out of lands) during his life, this is sufficiencie of freehold to be a chuser, &c.

And this fortie shillings *per annum*, must also be certaine, and not by reason of the gaine of an Orchard, Garden, or other thing which is casuall, and not certaine, for that is no sufficiencie.

If a man hath a freehold estate of lands or tenements in the right of his wife, of the yearely value of forty shillings, it is sufficient.

If a man hath free warren of conies, the which *communibus annis* is worth fortie shillings *per annum*, this is sufficient.

If a man maketh fortie shillings *per annum* of his woodsales, Cole-mines, Tythes impropriate, or the like, beeing his

his Freehold, these are sufficiencie of Freehold.

Clergie men for their Spirituall Livings, are holden to have no voyces in the election of these Knights. *Quare.*

Fellowes of Colledges in the Vniuersities, are holden to have no voyces in this election of Knights, for or by reason of their chambers or other auails in their Colledges.

And Gentlemen of the Inns of Court or Chancerie are to haue no voyces therein, by reason of their chambers there.

Note that the Sherife may examine vpon oath euerie such chuser, how much Freehold hee may expend *per annum.*

The election of these Knights must be made in the full county Court, & between the houres of eight & 11. in the forenoone, and onely by such Freeholders as be then present in the Countie Court.

And the Sherife is to returne such Knights as haue the greatest number of voyces, of such chusers and freeholders.

This

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This returne of the Sherife must be made by Indentures, sealed by the Sherife of the one part, and by the chusers of the other part. The form of which Indentures you may see in my Booke at large, *cap. 92.*

If the election be made in full Countie, and betweene the houres aforesaid, the Sherif may seale his Indentures, and make his Returne afterwards, and in another place.

Also this election of Knights (as also of Burgesles) may be by voyces, or holding vp of hands, &c. or by any other way whereby it may be discerned who hath the greater number.

Burgesles.

The Sherife also vpon receit of the said Writ for summons of the Parliament, ought presently to make out his Precepts (vnder the Seale of his office) to euery Mayor and Bailife, &c. of Cities and Burroughs within his Countie, commanding them to chuse their Citifens and Burgesles for the Parliament.

Those Maiors and Baylifes, &c. must make a returne of that Precept, and of their

their Election, (*scz.* of their names) to the Sherif by Indentures, & the Sherife must seale one part of those Indentures, and the other part sealed by the Maior, &c. the Sherife must certifie, and returne also with the Writ.

If any Sherife shall be negligent in making his returne of this Writ, or shall leaue out of his said returne any Citie or Burrough which ought to come to the Parliament, he shall forfeit an hundred pounds, and haue one yeres imprisonment.

If the Sherife shall doe any thing contrarie to the Statutes, either concerning the due election, or returning of these Knights and Burgettes, hee shall forfeit to the King an hundred pounds, and to the partie not duely returned, C.l. and haue one yeres imprisonment.

These Citisens and Burgettes of cities and Burroughs, ought to bee chosen of persons dwelling and free in the same Cities and Burroughs, and none other in any wise. *Tamen aliter in usu.*

Also the Sherife after he hath receiued a Writ for the leuying of the expences

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pences of these Knights, at their next Countie Court are to make Proclamation, That all Coroners, chiefe Constables, Baylifes, and others (which will,) be present at the next Countie Court after, to assesse the fees or wages of the Knights, &c.

At this assessement the Sherife (or Vndersherife) ought to bee in person, (with the Coroners and Constables) to assesse the wages.

And the Sherife in the presence of them that come, in the full Countie, shall assesse euerie Hundred to a certain summe by it selfe, (so that the whole summe of all the Hundreds do not exceed the summe due, &c.) Also the Sherife, &c. shall then also assesse every village, &c. to a certaine summe, so that the summe of the townes exceed not the summe assessed vpon the Hundred of which they bee, *sub pena* thirtie pounds.

Euerie Knight of the shire is to haue thirteene shillings foure pence by the day to be paid by the Countie.

If any Sherife shall leuie more than
shall

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shall be due, or shall not speedily leuy so much as shal be due; or shal not deliuer the same to the Knights, according to the said Writ, he shal forfeit xxx.l. &c.

The Sherife may distreyne for the moneys so assessed, and he may distrein the whole Heard (of Cattell) of the Towne, or the goods of any particular man of the town, for these Monies.

Also the Sherife may sell the distresses so taken.

Note that the Sherife shall asseesse no Village or place hereunto, but such as antiently haue beene chargeable.

Also the freeholders & tenants of such Lords, &c. as come to the Parliament, are not to be assessed for their lands holden of such Lords, except by prescription.

Also Burrough townes which send Burgeses to the Parliament, shall not pay or contribute to these wages, except it be by Prescription.

Lords, and Tenants in Antient Demesne shall be acquitted of payments to these expences, for such their land, &c. Also Copiehold lands are not chargeable to these expences.

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CHAP. 93.

The Sherifes duty in executing the writ of Redisseisin.

Redisseisin.

VPon this writ, the Sherife is first to summon the disseisor, and the ter-tenant, to bee before him at such time when he makes this his Inquisition.

But the summoning of the ter-tenant seemeth onely to bee, for him to giue in euidence.

The Sherif in this businesse is made a Judge, and therefore he must in person goe vnto the lands or tenements wherof the plaint is made, to see them; yea though it be within a Liberty.

He must sit and make his Enquiry, in proper person; and vpon the land &c. Or at least he must cause the Iury to goe see the lands &c. And then to hold plea of the matter.

He must haue the assistance of 2. Coroners (at the least) to sit with him at
the

the taking of the Inquisition.

And these Coroners should ioyne with the Sherife, in making vp of the Record; But the Sherife is only Iudge herein.

The Sherife at his Inquisition must also haue with him certaine Knights, or other lawfull men, being neighbors dwelling neere vnto the lands &c. And before them, and the Coroners, the Sherife must make his Inquisition by a Iury.

And the Enquiry must be, whether the tenant be Redisseised, or no; and not whether he were Disseised.

This Enquiry must bee made, by two of the first Iurors (at the least) & by so many other neighbours as shall make vp a full Iury.

Although all the first Iurors bee lying, yet the Sherife must take two (at the least) other new Iurors to bee of this Enquiry.

Also the first Iurours which must serue vpon this Enquiry, must bee of such as did passe vpon the principall action, and not such as passed vpon the Enquirie

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Enquiry for damages.

The Sherife may not suffer the partie to haue his challenge to any of the first Iurors : But he may haue his challenge to the other Iurors ; but not to the Array.

The Sherife herein hath no power to try any Plea , out of the point of Redisseisin ; Nor to suffer or accept of any forreine plea : Neither shall he suffer the disseisour to plead any feoffement or release ; Nor that he hath paid a fine,&c.

If vpon this Enquiry it bee found that the plaintife is redisseised (or disseised againe) then the Sherife must presently commit such disseisor to prison, there to remaine without baile vntill he shall pay a fine to the King. And further vntill he shall be discharged of his imprisonment, by the judgement of the Kings court, and by a speciall writ reciting that hee hath payd his fine to the King, &c.

The Sherife shall receiue no Attorney for either party, without the kings writ (whether the Lord hath Cognisance

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fance in an assise) &c. yet the Sherife shall enter the Franchise, and make execution of this Writ; but the Sherife shall there write his precept to the baylife of the Franchise to returne the Jury.

Vpon the Redisseisin found by the Inquisition, the Sherife also must make a record thereof, and make returne thereof.

And in this (Record and) Returne, the Sherife must shew or returne that he hath made his Inquisition, &c. in the presence of such Coroners. &c. by so many of the first Iurors, and by others, &c.

He must also return *Quod accessit ad locū*, or *Tent'a infrascript'* & not *accessit ad villam*: but he may returne *Quod apud S.* (being the towne where the land lyeth) *fecit Inquisitionem*, &c.

And this Inquisition must be returned vnder the Seales of the Sherife, and of the Iurors: but the seales of the Coroners seemes not to be needfull.

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CHAP. 94.

*Where the sherife may breake
open an house, to execute the
Kings Writ, &c.*

1. **VV** Herefoeuer the King is
a party, or hath any in-
terest in the businesse, as for the appre-
hending of any person for Treason, fe-
lonie, or suspicion of felony, the Officer
may breake open the doores.

So where one hath dangerously hurt
another, and then flyeth into an house,
but here fresh suite must bee made,
quare.

So where an affray is made in an
house, and the doores shut.

So vpon a warrant for the peace, or
good behaviour.

So vpon a warrant for Iustices of
Peace, to reseiue a house, and restore the
party put out, where a forcible Entrie,
or deteyner, was found by Inquisition
before the said Iustices.

So

So vpon Procees for the apprehending of any Popish Recusant, being excommunicated.

See *plus* my Country Iustice. *cap.* 78.

So vpon a *Capias vtlagatum*.

So vpon a *Capias pro fine*.

And yet the Sherife cannot breake open a doore, or a gate, &c. to distreine for the Kings rent; nor to leuy any fine, amerciament, issues, debts, or other such duties due to the King, except he hath the Kings Writ, &c.

2 Vpon a Commission of rebellion out of the Chancerie, the Sherife may breake open the doores or house to apprehend the party. But *quare*, if vpon an Attachment, or vpon an Injunction, they being the suite of the partie.

3 Vpon an *Habere facias seisinam*, or *possessionem*, the Sherife may breake the house, and deliuer seisin, &c. yea the Sherife ought to execute this Writ, although that an estranger bee lawfully seised of the house or land, &c.

4 In Execution of the Commission

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of Bankrupts, by warrant vnder the hands and seales of the said Commissioners, the Sherife may breake open the houses, chambers, shops, doores, or chests, &c. of the Bankrupt, wherein any of his goods be, or shall be reputed to be, and to seize vpon the body and goods, &c.

5 To deliuer cattell impounded, &c. in a Castle, Fort, or House, &c. See *hic cap.* 114.

6 Also where one being vnder arrest, vpon an Execution (or otherwise) shall escape into an house, vpon pursuit the Officer may breake open the house to take his prisoner againe.

7 So wheresoeuer the Officer hath once lawfully entred the house (or into one roome) he may breake open any other roome there, vpon refusall to let him goe in.

8 If the doore be open, and the Officer cometh to the house and sheweth the Kings Proces, and offereth to enter to execute the same, and then the doores be shut against the Officer, here the Officer may breake open the house,
&c.

&c. for that here he had lawfully begun to execute his Proces.

9 Where the Officer hath once lawfully entred an house to make execution of his Proces, the doore being open and then the doore is shut, and so the Officer is detained prisoner in the house, the Sherife is to deliuer his Officer may breake open the house.

But where the outward doore is shut before the comming of the Officer, there he cannot iustifie the breaking open of the house or doore, to execute any Proces vpon the body or goods of any person at the suit of any subiect for any debt, dammages, or the like.

And yet in all cases if the outward doore be open, the Officer may enter and make execution of any Proces, at the suite of any Subiect; otherwise if the doore be shut, though onely latched.

But note wheresoeuer the Sherife may breake open an house, yet first hee ought to make request to haue the dore opened; and withall he must signifie the cause of his comming.

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Also hee may not breake open the house or doores, where he may enter otherwise.

But the Law giueth no colour in any case to break open a mans house by night, except onely for the apprehending of traytors or felons.

Neither shall any mans house privilege or protect any stranger, for their body or goods (to prevent the Kings Proces) *Vide et Nota.*

Vpon a *Fieri facias*, the Sherife breaketh open a dore, or a chest to take goods in Execution, an action lyeth against him for breaking thereof.

CHAP. 95.

Where the Sherife may take Posse Comitatus.

THe Sherife and his Officers may take the power of the County, as well for the safeguard of their persons, as to execute the Kings Proces or Writ (be it a Writ of Execution, *Replevin*, *Capias*,

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Capias, &c. or any other Writ) and such as shall not assist the Sherife and his Officers therein, being required, shall pay a fyne to the King.

The Sherife also may take *Posse Comitatus*, to execute the precept of the Iustices of peace; as in case of a forcible entrie, &c. to make restitution, &c.

Also when any of the Kings enemies shall invade the land, the Sherife in defence of the Realme, may take *Posse Comitatus*, *hic cap. 1.*

So when any rebellion or riot, &c. shall be, *hic cap. 4.*

So to apprehend traytors or felons, *hic cap. 4.*

So where the Sherife findeth any resistance in the execution of his Office. *Hic cap. 36. 58. & 63.*

Note that the Sherife or his Officers may take the power of the Conntry by force of the Common Law.

And in all cases where the Sherife, &c. may take *Posse Comitatus*, there he may command the aide and attendance of all persons within his Countie

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ry, that are able to trauell, and be about the age of 15. yeares.

And in such cases it is referred to the discretion of the Sherife, what number hee will haue with him, and how and in what manner armed,

The Vndersherife, as also the Sherifes baylife, or seruant (hauing the Sherifes warrant) haue the same authority to take *Posse Comitatus* in euerie behalfe.

The Sherifes baylife to execute a Repleuin, tooke with him three hundred men armed, *modo guerrino*, (scz. with gunnes, &c.) and it was holden lawfull.

But the Baylife in such cases must be a knowne baylife, and must haue the Sherifes warrant to doe this.

CHAP. 96.

Bailement of Prisoners.

IF the Sherife shall detaine any prisoner which is baileable, after sufficient sureties offered, the Sherife shall be punished.

If the Sherife shall baile any person which is not by him baileable, hee shall be punishable to the King and partie grieved: And if the prisoner were in for felonie, and the Sherife bayleth and deliuereth him, this is telonie in the Sherife, except it be by vertue of the Kings speciall Writ.

But Sherifes (and their Officers) ought to let to baile all manner of persons, by any of them arrested, or being in their custodie by force of any Writ, Bill, or Warrant, in any Action personall; or vpon any Indictment of Trespasse, vpon sufficient sureties offered to appeare at the day and place where and when the same Writ, &c.
are

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are returnable.

And yet Sherifes may not baile any person in any of these seuen cases following, *scz.* such as are in their custodie,

1 By condemnation vpon any iudgement.

2 Vpon a *Capias ad satisfaciendum* or other Execution.

3 Vpon a *Capias excommunicatum.*

4 Vpon a *Capias vilagatum.*

5 For suretie of the Peace.

6 By commandement of any Iustice.

7 Nor Vagabonds or idle persons refusing to serue.

Neither shall the Sherife bayle any person or prisoner taken for any manner of treason or felonie.

And yet a prisoner in the Gaole for felonie, may by the Sherife bee bayled, vpon the Kings speciall Writ of Mainprise.

Also persons committed vpon an Indictment for Trespasse, or other like offence, before Iustices of beace, the Sherife

Sherife may baile them, binding them to the next Sessions, &c.

Now wheresoeuer the prisoner is baileable, there after the Arrest, the officer ought to take sureties by obligation for the appearance of his prisoner. Obligation.

In the formes of such obligations, these three things are to be obserued, otherwise the obligation will be void.

1 The bond must bee made to the High-sherife onely (or to his vse) and to none other person.

2 It must bee made to him by the name of Sherife.

3 There must nothing be put into the condition of the bond, but onely that the defendant shall appeare at the day and place in the Writ specified, & to doe as the Writ requireth.

A bond made to any person for the enlargement of a prisoner, saue only to the Sherife, is void.

A bond made to the Sherife to such purpose, without a Condition, is void.

A bond made with addition of any
clause

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clause, or word, in the Condition to any of these purposes following, *scz.* to saue harmelesse, to yeeld his body prisoner, to bee true prisoner, to pay money charges or fees, or for meate or drinke, or for any other thing, than onely for appearance of the prisoner is void.

A verball promise or *assumpsit* in such cases, is void.

Also it is safe for the Sherif, that the the party bailed bee bound with two sureties, haning sufficient within that Countie.

And for the sureties, their number, and sufficiency, and the sum wherein they shall be bound, all these are left to the discretion of the Sherife or Officer.

But bonds taken by the Sherife of the defendant, being neither in prison, nor arrested, with condition to pay the money recovered in Court, or to pay it to the Sherife, seemeth good.

The Sherife leueth goods vpon a *Fieri fac'*, and then sels them to the party, and taketh his bond for the money,

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ny, this is good.

So if the Sherife taketh Bond for the payment of money due to the King, vpon an Estreat out of the Exchequer, it is good.

So if the Sherife attacheth goods, and taketh bonds for them.

And it seemeth that the Statute of 23. H. 6 doth make voyd onely Obligations made by prisoners or persons arrested. (or made by any other) for the enlargement of the prisoner, or person arrested.

CHAP. 97.

*The forme of a Bond for
appearance*

NOuerint vnimersi per presentes
nos B. C. de, &c. E. F. de, &c. &
G. H. de, &c. teneri & firmiter obliga-
ri A. B. Armig^r, Vicecom^r Com^r pra^r,
in xl. l. &c. solvend^r eidem Vicecomiti
aut suo certo attornato, exequi sine ad-
minist^r

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minist^r suis, ad quam quidem solutionem, &c. (as in other Bonds)

A Condition for apparance.

The Condition of this present Obligation is such, That if the above bounden *B.C.* doe appeare *coram, &c.* (according to the Writ) to answer to *I.D.* in a plea of Debt, (or Treipasse, as the Writ is) That then, &c.

Sealed and deliuered to the vse of the above named Sherife, in the presence of *A.R.* and *T.S.*

A Condition to appeare in the Starre-Chamber.

The Condition of this present Obligation is such, That if the within bounden *I.S.* doe personally appeare before the Kings Maestie, and his most honourable Councell, in the Court of Starre-Chamber at Westminster (such a day) and so from day to day, and not to depart without licence of the sayd Court, That then, &c.

A Condition for appearance at
the Sessions.

Conditio, &c. Quod si infra obligatus I.S. in propria persona sua compareat ad proximam Sessionem Iustic' Pacis in Com' C. post Festum, &c. proxime futuram tenendam, ad respondendum Domino Regi de diversis offensis unde indictatus est: Quod tunc, &c.

A Condition to appear in the Common place vpon an Exigent.

Conditio, &c. Quod si I. S. de, &c. in propria persona sua compareat, coram Iustic' Domini Regis apud Westm' a die Sancti Michaelis, in tres septimanas proximum futurum, post datum infra scriptum, ad respondendum R. W. in placito debiti secundum formam, vim, & effectum cuiusdam brevis de exigentia infrascripti Vicecom' directi. Quod tunc, &c.

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CHAP. 98.

Their attendance vpon the Iudges of Assise, &c.

1 **V**Pon a Precept from the Iudges of Assise, &c. the Sherife is to summon the Assises, &c. and to returne the same.

2 The High-Sherife is personally to attend vpon the Iudges in their Circuits, for the executing of their Precepts and Commandements, and to take charge of all prisoners in the Gaole, and for the execution of Felons condemned to die, (which sentence he must see executed) and for inflicting punishment vpon other offenders, according to his office.

3 He is to make and deliuer (at euery Assise) to the said Iudges, a Kalender of the names of all the prisoners which are or were in their custodie for Felonie, (or otherwise) with the cause of their committment, and by whom they
they

they were committed; and by whome any are bayled, *sub poena v. l.*

And withall, the Sherife is to make and to deliuer to the said Iudges, a Kalendar of the names of all the Iustices of peace, Coroners, Stewards, or Baylives of Liberties, and Baylives of Hundreds.

Also all Baylives, and other Ministers of any Franchise, &c. must be attendarit to the Iudges of Assise, &c.

And the Iudges of Assise may fine the High-Sherife, & other the said Officers, if they faile either in their attendance, or for any other negligence, misbehaviour, or misdemeanor in their office, before them.

The Iustices assigned to heare and determine Felonies, may award their Procelle to the Sherifes of any other Countie, where a prisoner indicted before them of felonie is dwelling, to apprehend him, & the sherif of such other country is duly to execute the same procelle.

Note that the Sherife may not stay or delay the execution of any prisoner

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demned to die, without the commandement of the Iudges.

CHAP. 99.

The Sherife is to assist, &c. Iustices of Peace.

1 IN some cases the Sherife is to ioyne with the Iustices of Peace.

As first for the suppressing of Riots, Routs, and vnlawfull assemblies,

For the arresting and imprisoning of the Offenders.

For the Recording of the Riot.

And for enquiry thereof according to the Statutes.

2 If the truth of the Riot can not be found out vpon this enquiry, then within one moneth the Sherife is to ioyne with the Iustices in a certificat of the fact and circumstances, &c. into the Kings Bench, or, &c.

If the truth be not found by reason of any maintenance, they are to make another certificat of the maintainers, and

and of their names and misdemeanors;

Plur hic cap. 4.

3 The Sherife also is to attend goe with, and to assist the Iustices of Peace, for the arresting of such as make any forcible Entry, or Detainer of possession; and for the remooving of the force, and of the offenders:

4 The Sherife must make due execution of the precepts of the Iustices of Peace, for the returning of Injuries before them, to enquire of forcible Entries, or Riots, &c. *sub pena* twentie pounds.

The Sherife also must duly execute all other precepts and lawfull warrants directed to him from the Iustices of Peace for ministration of Iustice.

5 Also the Sherife (or his Vnder-sherife) is to attend the Iustices of Peace, at their generall Sessions of the Peace, and the Iustices there may fine him for their absence.

If the *Custos Rotularum*, or two Iustices of the Peace, (the one being of the *Quorum*) shall make their precept to the Sherife to summon the Sessions

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at a certaine day and place, &c. the Sherife ought to performe this, notwithstanding any Command from any other Iustices of Peace; yet two other such Iustices may by their precept, command the Sherife to summon another Sessions vpon the same day, and at another place.

6 The Sherife is to leuy the Iustices wages, (vpon the Iustices Estreats, &c.) and is to pay the same to the Iustices. See the cap. 125.

CHAP. 100. & 101.

He is to execute the Precepts of

other Commissioners.

Sherifes are to execute all such Precepts, and other commandements, as shall come to them from any five or more Commissioners of Sewers, as well for returning Iuries before them; as also for the execution of all other things contained within their Commission.

Sewers.

They

They are also to execute the Precepts of Commissioners of Bankrupts for the returning of Iuries before them, for the preising, &c. of the lands and goods of the Bankrupts; as also for the breaking open of their houses, and sei-
 sing of their bodies, or goods therein.
hic cap. 94.

They are to returne a Iury before Commissioners assigned to take an account, &c. vpon a Precept from the said Commissioners. Accompt.

They are to execute the precepts of Commissioners for the Subsidy, for the distreining or arresting of persons indebted, or otherwise for the execution of that Commission. Subsidy.

They are to returne Iuries for En-quire, before Escheators, and to execute all other their lawfull Commandements. Escheators.

They are to returne Iuries for Enquiry, before Coroners, vpon their Precept; and must further execute all other Precepts and commandements lawfull, of Coroners, in all things pertaining to their Offices. Coroners.

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And it seemeth that all these former Commissioners and Officers may assesse a fine vpon the Sherife for not returning of Iuries before them.

Also Sherifes must haue Counter-Rolls with the Coroners, of all things belonging to the Office of the Coroners, scz. of Appeales, Enquests, Attachments, Abiurations, Vtlawries, and other things.

Plur inde hic cap. 14.

Clerke market

Sherifes are to returne before the Clerke of the Market (vpon his warrant) Iuries to enquire of things belonging to the office of the Clerke of the market.

Sherifes being required, are to ayde the Ordinary and Commillary for suppressing of Heresies, called Lollardies.

Now concerning these Lollards, the Statutes made against them are not only repealed; but the persons so called, were indeed true Christians.

But without the Kings speciall Writ, the Sherife now may not cause any man to be burned for Heresie, notwithstanding

withstanding any warrant from the Bishop to him directed for such purpose.

CHAP. 102.

*Proclamation to be made by
the Sherife.*

EVery Sherife ought in person 4. times in every yeare, within every his Hundreds, to proclaime the statute of Winchester made against murders, robberies, and felonies. Winchester.

They also are to cause the same Statute to be proclaimed by their baylives in all Fayres and market townes.

Sherifes having received the Kings Writ, &c. ought to proclaime foure times in the yeare, all statutes made of Purveyors. Purveyors.

They shall proclaime foure times in the yeare in every market, the statute made against vnlawfull games, and for the maintenance of Archery.

But none of these three former statutes

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tutes for the Proclamations are in vse now as it seemeth.

Wages.

The rates of wages of seruants and labourers, &c. sent to the Sherife from the Lord Chancellor, or Iustices of Peace of the Countrey, the Sherife shall cause the same to be proclaimed in euery market towne, and to be fixed vpon some post within the same towne, &c.

Hawkes.

Hawkes lost and brought to the sherife, he must proclaime the same in all good townes within his Countrey.

Summons.

The Summons in real actions being made vpon the land, shall be after proclaimed by the Sherife (vpon a Sunday presently after Diuine seruice (and sermon,) and at the most vsual Church doore of the Parish where the land lyeth) fourteene dayes (at the least) before the day of the returne thereof; and that proclamation so made shall be by him returned together with the names of the Summoners.

Vtlarie.

Vpon euery *Exigent* (where a Writ of Proclamation is awarded, &c.) before the Vtlary shall be pronounced or returned; the Sherife (to whom any such

such Writ of Proclamation (shall be directed) as to make three Proclamations at three severall dayes, (the one in the open County Court; another at the generall quarter Sessions; the third at the Church doore of the Parish where the defendant dwelleth, and vpon a Sunday, immediately after Divine Service (and Sermon): and this third Proclamation is to bee made one moneth (at the least) before the *Quinto Exatm*: And these Proclamations are to be made to this effect, *scz.* That the defendant yeeld his body to the Sherife, so that the Sherife may haue the body at the day of the returne of the *Exigent* to answer to the Plaintiff, &c.

Vpon a Writ *de Excom^o Capiendo*, if *Non inuentus* be returned, then a *Capias* shall bee directed to the Sherife, who thereupon is to make Proclamation in his County Court (or at the the Assises or Sessions of the Peace) tenne dayes at the least before the returne, that the party within fixe dayes yeeld his body to the Gaole, &c. And
such

Excom. capied^o.

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such Procelse, and Proclamation shall bee made vntill the party yeeld himselfe.

Indictments.

Vpon Indictments or Appeales of persons dwelling in forreine Counties, &c. vpon the second *Capias* directed to the Sherife, if he cannot finde the party, then he shall make Proclamation in two County Courts, that the party appeare before the Iustices according to the said second *Capias*.

Riots.

In cases of Riots which cannot be found vpon the Enquiry of the Iustices of Peace: they and the Sherif are to certifie into the Kings Bench, &c. and if the offenders doe not appeare there, then vpon the second *Capias*, if the offenders be not found, the Sherife at his next County Court, is to make Proclamation that the offenders appeare within 3. weekes, &c.

Parliament.

The Sherife vpon the Kings Writ is to make Proclamation of the day and place of the Parliament, &c. *hic cap. 92.*

Hee is also to make Proclamation, That all that will be present to asseesse the

the fees and wages of the Knights,
&c. *ibid.*

In a Writ of Admeasurement (of Grand distres.)
Dower or Pasture) the Sherife vpon
the Grand distresse must make Procla-
mation at two County Courts, that the
defendant appeare at the day, &c. to
answer the Plaintife, &c.

And so vpon the Grand distresse in
a Writ of Ward, but here Proclamati-
on must bee made at three Countie
Courts.

In a Writ of *Mesne*, the Sherife vp-
on the Grand distresse must make Pro-
clamation at two County Courts, that
the *Mesne* appeare at the day contained
in the Writ, to acquite the tenant, &c.
And the Sherife is to make retorne of
these Proclamations, and how often the
same haue beene made.

CHAP.

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the law and wages of the King.

CHAP. 106.

The Sherifes Courts.

First, concerning the Sherifes Turne.

Tourne.

THIS Court and power was committed to the Sherife for the government of the Countie, *scz.* to enquire therein of all criminall and personall offences, and to reforme al common Nufances, &c. done within the Countie.

Place.

This Court is to be holden by the Sherife in euerie Hundred within his Countie, and that onely in the place accustomed.

Time.

It is to be holden twice a yere, *scz.* one moneth next after Easter, & within one moneth next after Michaelmas.

Suitors.

All persons of the age of xij. yeares, or aboue, dwelling within the Hundred, ought to come to this Court, and there must be sworne to the Kings allegiance.

Except

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Except notwithstanding Barons,
Clergie-men, and women. Also except
Tenants in Ancient Demesne.

And except such as doe owe suit to
the Lees of any other Lord. And yet
where such Lees be neglected, or sei-
sed into the Kings hands, &c. there the
Reliants may be compelled to come to
the Sherifes Turne.

After appearance of the Suitors, first
twelve (or more) sufficient freeholders,
dwelling within the Hundred, shall be
impanelled and sworne, to enquire of,
and to present all things there inqui-
rable.

Jury.

And then (as a second Jurie) the
High-Constables and pettie-Consta-
bles within that Hundred, shall vpon
Oath present the defaults committed
within their seuerall limits, which pre-
sentment they shall make or deliuer to
the first Jurie, or to the Steward, and
then he deliuereth that to the Jurie.

The first Jurie must deliuer vp their
verdict to the Steward: But if there be
any presentment of any Felonie, that
must be deliuered vp by it selfe, to the
Steward

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Steward privity.

These Indictments or Presentments shall be made by Indenture between the Sherife and the said Jurors, whereof one part shall remaine with the Jurors under the hand and seale of the Sherife, or Steward; and the other part to remaine with the Steward, and by him to be sent to the next Sessions of the Peace, &c.

And yett such Presentments are good, though they be neither indented nor sealed.

Those first Jurors ought to bee men of good name, and to haue within the same Countie twentie shillings Freehold *per annum*, or twentie six shillings eight pence Copyhold *per annum*, at the least.

CHAP. 107.

THe stile of this Court must bee thus:

Vif. Francipleg' Domini Regis teni apud L. p. in Terminis, &c.

And

And in this Court the Sherife is to enquire and to take presentment of these things following: *viz.* of all Treasons at the Common Law.

Felonies by the Common Law, except the death of a man.

Escapes of Felons, or of other prisoners.

Persons abiured, or Outlawes returning without Licence.

Treasure-Trove, Waifes, Estrayes, and Wreckes of the Sea found and retained.

Franchises newly claimed, or not used or abused.

Purprestures and Incroachments made vpon the Kings lands, Franchises, or vpon Highwayes, &c. And these may bee seised into the Kings hands in some cases: and if it bee in land or buildings, after the Purprestures found by Enquest, and the value assessed, it may be set at a yearly Rent to be answered to the King; or it may be pulled downe. See *hic* cap. 7.

Common Nuisances made in Highwayes and Rivers, &c.

Common

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Common Trespaffes, as Affrayes,
Bloudsheds, Pound-breaches, &c.

Euill Members, as Night-walkers,
Messengers for Theeues, &c.

Falfe Measures & weights, or double
Measures, &c.

Inne-holders and Hostlers, selling
Mans meat or Horse mear at vnreason-
able prices.

And of all other things inquirable
in a Court Leet; if they be not former-
ly inquired of and redressed in the
Leet.

This Court is a Court of Record.

In this Court the Sherife is Iudge.

And this Court is incident to the
Office of the Sherife. And the Sherife
is to haue the profits thereof, *scz.* the
amercements and fines.

CHAP. 108.

ANd yet vpon Indictments or
presentments taken in this Court
the Sherife, &c. cannot make out any
Procelle against the Offendors, nor at-
tach;

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tach, arrest, or imprison any Offendor, nor asseſſe, leuie, or take any amerciamento or fine of them, without Proces or Eſtreats from the Iuſtices of peace, *ſub pœna C.li.*

But all ſuch Indictments or Preſentments the Sherife muſt firſt deliuer or ſend to the Iuſtices of peace at their next Sessions, (*ſub pœna xl.li.*) and the ſaid Iuſtices are to award Proceſſe againſt the Offendors, and to arraigne, trie, and deliuer them, and to fine them for Treſpaſſes, &c. and then to eſtreat the fines and amerciaments to the uſe and profit of the Sherife before whom the Indictment was taken; which Eſtreat ſhall be deliuered by Indenture to the Sherife or his Officer, to gather the ſame by.

Cc **CHAP:**

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CHAP. 109.

*The authoritie of the Sherife (or
of his Steward) in the Turn
at this day.*

Imprison.

They may take the examina-
tion of Felons, and may
commit them to the Gaole.

They may take presentments of
Treasons and Felonies.

2 Affrayors in their presence they
may commit to ward.

They may bind such Offendors to
the Peace by Recognisance.

Fine.

3 They may impose a reasonable
Fine vpon such as in their Court shall
commit any other disturbance or con-
tempt to this Court.

If a Suitor to this Court being pre-
sent, will not be sworne, they may fine
him, and imprison him till the fine be
payd. Or they may amerce him, and
distreyn him for the amerciament.

If a Suitor maketh default of appea-
rance,

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rance, he shall be amerced.

If a Sutor being sworne shall refuse to make presentment, or shall depart without giuing vp their verdict, the Sherife, &c. may set a reasonable fine vpon him.

If an Officer to this Court shall refuse or neglect to execute his Office, they may fine him.

In this Court they may cause the High-Constables and petrie-Constables to be chosen, and to be sworne, and being chosen and present, if they refuse to be sworne, they may fine them.

Vpon a Bloudshed presented, there the Sherife may set an amerciamment or fine, and the offender shall make his fine there. *Quare.*

Also vpon a Nuisance presented, the Offenders shall bee there amerced. *Quare.*

If a Purpresture be there presented, the Sherife may reform or pull it down. But for a Purpresture, or for any Trespasse there presented, the Iustices of Peace at their Sessions, are to assesse the fines vpon the Offenders.

C c 2

Vpon

The Office of a Sherife.

Pillorie.

Vpon presentment of the Assise of Bread, Beere, or Ale, broken by any Baker or Brewer, they may punish the Offendor by the Pillorie, where the offence requireth it: This is by a late statute.

Vpon presentment of any Inneholder or Hostler, for not making their Horse-bread of due Assise, or for selling their victuall or prouander at unreasonable prices, they may fine the offendor, and for the second offence they may imprison him without Bayle, for one moneth, and for the third offence they shall set him in the Pillorie.

Note that a presentment in this Court is not trauersable there after the day wherein it is presented, except it toucheth the Freehold, &c.

Note also, that for all amerciaments assessed by the Sherife, &c. in his Turne, (for default of appearance, or the like) the Sherife may distreyne for such an amerciament in any place within his Countie.

CHAP.

CHAP. IIO.

The Countie Court.

THIS Court was ordained for the Sherife to hold Plea there, for particular or priuate matters (vnder fortie shillings) betweene partie and partie.

And this Court may be kept at any place within the Countie, at the pleasure of the Sherife, except in certaine Shires.

To this Court all persons dwelling within the Countie doe owe suit, by reason of their resiancie.

Also a man may hold lands to doe suit seruice to this Court.

The Suitors for default of appearance shall be amerced; *scz.* if they were warned by the Baylife, and that there be not a sufficient number to passe vpon Issues there depending.

But any Suitor may doe this his suit by his Attorney.

The Officer of this Court is one of

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the Baylifes.

And as to all Actions & Suits which are there betwene partie and partie (either by Plaint or Writ) the Freeholders or Suitors are Iudges in this court, *scz.* to find the partie guiltie or not guiltie, &c.

But yet all Iudgements there, (as wel vpon Actions and Suits by plaint, as by Writ) shall be pronounced by the Sherife.

And if the Sherife shall giue false iudgment without the assent of the suitors, the Sherife shall be punished, &c. And so if he shall doe any other thing without the Suitors there. *Quere.*

By Plaint.

In this Court the Sherife may hold plea off, and may examine, heare, and determine by way of Plaint, (without any Writ of *Iusticies*) certaine smaller personall Actions, as of Debts due vpon Contracts, Detinue of Chattells, *Assumpsit*, Couenant, Nuisances, taking of Cattell, and deteyning them, Trespasse, and the like, hapning, made, or done within their Countie, if that the debt or damages be vnder forty shillings,

lings, and the plea determinable by
wager of Law.

Also the Sherife may make replevin
of cattell or goods taken and withhol-
den, and may hold plea thereof in this
Court without any Writ, (*Quare*, if
that the damages exceed the summe
of fortie shillings.) *Plus postea.*

But hee cannot hold plea either by
Plaint nor by Writ, where the offence
is laid to be *vi & armis*.

Neither can they hold plea heere by
plaint of any Debt due by Bond or Re-
cord, nor in an Account, nor any
Plea of Disceit, Maintenance, Forger
of false Deeds, Detinue of Charters
concerning Freehold, nor of any reall
thing, nor of any personall thing about
fortie shillings.

Neither may they proceed, if the free-
hold come in question, except it be by
a *Iusticies*.

This Court also is incident to the
Sherife, and cannot bee granted from
him; and the entrie of all Pleas & Pro-
ceedings there, are belonging to him,
and he is to appoint his Clerks in this

The Office of a Sherife.

Court, and such as he wil answer for.

No plaints shall bee entred in the County Court, vnlesse the plaintife be present in the Court in person, or by an Attorney or Deputy knowne to be of good name.

And the plaintife must find pledges to pursue his pleint.

Also the Sherife &c. shall enter but one pleint, for one cause, contract, or trespasse.

The plaintif must enter his pleint, by writing, and in full Court (*sedente Curia*) beioxe the Sherife or Steward, &c.

After the pleint entered, the plaintife must procure the procelle of the Court (*scz.* the Sherifes warrant to be directed to the Bailife) to warne the defendant to appeare at the next court &c. And the Sherife must make sufficient warrant, precept (or procelle) to his Bailife to attach, or warne the defendant accordingly, *Sub poena* &c.

Any person (as well plaintife as defendant) may make an Attorney to sue for him in all pleas in the county court

Plus

Plus cap. 112.

For the further proceedings in these plaints, the businesse thereof belongeth more properly to the Steward; which notwithstanding you shall find more fully in my booke at large.

If any Sherife, or Officer, shall sollicite, or procure any suits in this court, they shall be greuously punished.

If the Sherife shall make any default in not warning the defendant, or other execution of his office, hee is punishable.

Note that this County Court must be kept every moneth, vpon a day certaine, that all writs of Exigent may be there proclaimed.

And the Coroners are to sit there with the Sherife at every County court there to giue Iudgement vpon vtlawries, which Iudgement shall bee pronounced and giuen by the Coroners in the first County, and then the Sherife is to returne the vtlawrie with the Exigent.

CHAP.

The Office of a Sherife.

CHAP. III.

Appeales of Robbery, & other Felonies, and of Murther, and Rape, may be sued in the County Court, by bill before the Sherife and any one of the Coroners.

BVt vpon the Appeale sued there, there shall bee first found to the Sherife two suerties *de Prosequendo*.

The proceedings in such Appeales, is as in Appeales in the Kings Bench, *scz. Capias & Exigent, &c.*

And as to these matters of appeale, as also as to the Iudgements given in this Court vpon Vtawry, this County Court is as a Court of Record.

CHAP. II.

Processe.

THe Processe in the County court in all personall aetions (as well in a *Iusticies*, as where the suit is by pleint

is a *Summons*, *Attachment*, and *Distringas* infinite. Except in *Trespasse*, and there onely an *Attachment*, and *Distring* infinite.

Also if vpon the *Summons* a *Nihil* be returned, then a continuall *Capias* where it is by writ.

Quare if a *Precept* by *Paroll* be not good enough where the suite is by *Plaint*.

Either party may be *essoined*, which must be at the beginning,

After the *Essoines*, the *Plaintife* must be ready at euery Court hanging the plea, otherwise he shall bee adiudged *Nonsuit*, and he and his *Pledges* shall be amerced.

If the defendant doe not appeare, then (vpon the baylifes returne, &c.) *Proces* shall goe out against him, *vt supra*.

And yet both the *Plaintife* and defendant, may appeare by *Attorney*.

Vpon the attachment, the baylife Attachment. must attach the defendant by some horse, pot, pan, or the like, and the baylifemay keepe that vntill the next County;

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County; which goods shall be forfeit if the defendant maketh default; and then a *Disstring*' goeth out.

Or the defendant may put in two Pledges or Sureties for his appearance at the next Court (and so *Replevy* his goods,) and then vpon his default, hee and his sureties shall be amerced, &c.

Disstring'.

Vpon the *Disstringas*, the baylife must distreine the defendant by his goods, which he may keepe, and which shall be forfeit vpon his default, *vs supra*,

But if the defendant put in pledges, there must be 4. at the least.

And after a *Disstring*' infinite shall goe out, till the defendant appeare.

Tryalls.

All tryalls in the County Court, are vsually by *Ley Gager*, (*scz* by the oath of the defendant) if the suit be by Pleynt.

Or it may be by examination of witnesses. Or by prescription it may be by a Iurie.

But if the suit be by force of a *Iustices*, then the triall shall be by a Iurie of
of

of twelue men.

If the matter be found against the defendant, then they vse to grant out a *Leuari fac* 'to leuy the dammages and costs, &c. Executions.

And yet by good opinions, the execution in this Court, is onely by distresse, and impounding (or retaining) the cartell, vntill the party be satisfied; And that the Sherife cannot sell the goods, nor deliuer the distresse to the party: nor any execution lyeth there against the body.

But to haue the Iudgements giuen in this Court, to be executed by the Sherife safely, the party may procure out of the Chancerie a Writ *de Executione Iudicij*, to be directed to the Sherife, &c. be the suit by a *Iusticies*, or by Pleynt without Writ.

And then if the Sherife will not make execution, an *Alias* and *Pluries* shall goe out, and after an attachment against the Sherife.

The Office of a Sherife.

CHAP. II3.

Of the Writs of Iusticies.

PLeas in this County Court, are sometimes holden by force of the Kings Writ of *Iusticies*, directed to the Sherife; which writ giueth special power to the Sherife to hold plea in his County Court; and is therefore called a Vicountiel Writ.

This Writ is not returnable, but therein the matter shall be tryed and determined in the County Court before the Sherife by a Jury according to the course of the Common Law.

And the proceedings therein shall be as in a Writs originall of the like nature, in the Kings Courts at Westminster.

And the same Procees shall bee in a *Iusticies*, as which the suit is there by pleint; *scz.* Summons, attachment, and distrelle; but no *Capias* in any case. And the Sherife is to make the Proceesse;

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celse, &c. to his baylife.

The Sherife by vertue of this Writ, may in his County Court hold plea of lands, or other pleas reall, as also of pleas personall, although the debt or dammages shall be about 40. s. to any summe whatsoever.

And though the freehold shall come in question, where the suite is by a *Iusticies*, yet this Court shall not surcease.

Where the Plea is by a *Iusticies*, it seemeth that the High Sherife must or should sit in person, to heare and determine the matter; and yet the suitors are Iudges of the cause, *vs supra*.

Where a Iusticies shall be sued before the Sherife onely, and What Writs be Discontinuel, (scz. triable in the County or Sherifes Court.

- 1 *Iusticies de Accomps.*
- 2 *Admeasurement de Dower.*
- 3 *Admeasurement de Pasture.*
- 4 *Annuity.*
- 5 *Assise de petite Naisance.*
- 6 *Curia claudenda.*
- 7 *Customes and seruices.*
- 8 *Debt.*

The Office of a Sherife.

- 8 Debt.
- 9 Detinue.
- 10 Dower *unde nihil habet.*
- 11 Droit Patent.
- 12 Droit de Gard.
- 13 Homine Replegiando.
- 14 Breue de Mesne.
- 15 Natiuo habendo.
- 16 Plegijs acquietandis.
- 17 Quarentine.
- 18 Quod permittat.
- 19 Rationabil' diuifis.
- 20 Repleuin de biens.
- 21 Secta ad Molendinum.
- 22 Trespasse.

The Writ *de Recaption* may also be sued in the County Court, but this must be before the Sherife and Coroners.

But note where the Plea is holden in the County Court by a *Iustices*, yet the same may bee remooued into the Court of Common Pleas.

and of his, more to very abused

beastly more

CHAP. II4.

The Sherife hath power to make

Repleuin by Writ, or by Pleynt.

king Repleuin.

Herefoer any mans beasts

or other goods be taken and

wrongfully withholden the owner of

the goods may at his election sue a Re-

pleuin by Writ, or by Pleynt.

And the Sherife hath power to make

Repleuin, and to deliuer the cattell or

goods in both cases.

The Sherife or his Vnderherife, or

any of his Deputies (in the Country)

vpon complaint of beasts, &c. taken

and withholden, may presently make

Repleuin thereof, out of his Court

(yea in all places) and may deliuer

them. And the Sherife may command

his baylife (either by writing or word)

to make deliuerance thereof.

But the Sherife (or baylife, &c.)

must first come to the place where the

cattell, &c. are deteyned, and to demand

both

D d

The Office of a Sherife.

both the view of them, and to have them deliuered.

When the Officer hath gotten the view of the cattell, he shall presently deliuer them, and shall giue day to both parties to appeare at the next Connty Court, &c.

Yet before deliuerance thereof, the Sherife (or Officer) must take Pledges, (*scz.* sufficient security) of the owner of the cattell, *Tam de prosequendo, quam de Returbo habendo, &c.* (*hic ca. 45.*) or els the Sherife may be charged for the price of the cattell, if retaine be awarded.

This security most commonly is vsed to be by a bond of ten pound at the least, with condition for his appearance at the next County Court, and there to prosecute his suit with effect against the other, for taking and withholding of the said cattell; and to take retaine thereof, if retaine shall be so adjudged, &c.

If the beasts were taken within a Liberty, and the baylife of the Liberty will not deliuer them vpon the Sherifs precept,

precept, The Sherife must enter, and deliuer them.

If the beasts be put into a Castle, House, Parke, or Close, &c. the Sherif (or his Officer) may take *Posse Comitatus*, if need be, and shall beat downe the Castle, &c. and deliuer the beasts: But yet the Officer must first come to the place where the cattell are so deteined, and there demand the view of them, and to haue them deliuered, *ut supra*, and (whether any be present or no, if they were warned) then the Sherife may execute the Law as afore-said.

If any other disturbance therein be made to the Sherife or his Officer, they may take *Posse Comitatus*, to make deliuerance.

The Sherife may not breake a close or hedge, to make a Repleuy, where there is a gare, except the gare be locked vp, &c.

Note where the Repleuin is by pleynr in the Countie Court, it shall not proeceede if any thing touching the freehold come in question.

The Office of a Sherife.

Per Breue.

Also vpon a Writ, (*scz. a Iusticies*) directed and deliuered to the Sherife, to make deliuerance of a distresse, the Sherife or Officer (after sureties taken *de Pres:quendo, & de Retorno Habendo*, as aforesaid) must goe to the pound or place where the cattell be, and demand the view, &c. (*vt supra*) and then shall deliuer them.

And the Officer shall also attach the defendant (by his goods) to appeare at the next County Court, to answer to the Plaintiffe, &c.

If the Plaintiffe be *Non suit, &c.* then a retorne of the beasts shall be awarded to the defendant: and thereupon the Officer shall deliuer to the defendant (or auowant) the first distresse, and besides the defendant shall recouer costs and dammages, where the Plaintiffe is *Non suit*, or that the matter be found against him.

Vpon the *Pluries* not serued by the Sherife, his power is determined, and the parties shall plead in Banke.

If a man sueth a Repleuin (by Pleynt or Writ) and the Sherife maketh his precept

precept to his baylife to make deliuerance, and the baylife returneth that he cannot haue the view of the cattell, or that they be esloined, &c.

Then the Sherife at his next County Court, shall (*ex officio*) enquire thereof by a Jury, and if it be so found, the Sherife in the same County Court, shall award a precept in the nature of a *Capias in Withernam* directed to his baylife to take the cattell, &c. of the defendant *in Withernam, Quousque, &c.* *Withernam.*

This precept must be made in full Court, and by writing, and must be sealed with the Seale of the Sherifes office.

And the Officer may take in *Withernam* goods of any kind, number, or value reasonable; And those goods the Sherife may either keepe or deliuer them to the Plainrite, *hic cap. 80.*

Also note that the party who hath his cattell deliuered him, &c. either vpon Complaint, or by Writ, ought to enter his Plea before the Sherife in his

The Office of a Sherife.

next County Court.

Vpon a Writ to the Sherife to make deliuerance, if the Officer be disturbed in the execution of the Writ, he may take *Poss. Comitatus*, &c. to take the disturbers; and the Sherife may imprison them: or the Sherife may award an attachment, & after a *Distring.* against the disturbers, vntill they come in, and then they being convicted shall be fined to the King by the Sherife,

And so it seemeth though it be before the Sherife without Writ, if the baylife returneth that the party wil not suffer him to make deliuerance, the Sherife may award an attachment, and after, *ut supra*.

Euery suit depending in the County Court (be it by a *Iusticies*, or by Pleynt) may be remooued thence, by a *Pone* or *Recordare*; and if after the remoouing, there shall be any proceeding in the County Court, the Sherife, &c. shall be punished to the King, and party grieved.

CHAP.

CHAP. III.

The authority of the County
Court, &c.

THe Sherife (nor his Steward there) may not arrest or imprison a man in any suit there depending (though by a *Iusticies*;) nor for any contempt or offence done in this Court.

They can impose no fine in this Court vpon any offender, for that it is no Court of Record.

And yet this Court as to some matters, is a Court of Record. See *hic* cap. 4. § III.

Also where there is a plea of debt depending in this Court (especially by a *Iusticies*) there the Sherif in this court may take a Recognisance of either party, to pay a summe of money to the other at a certain day: and in some cases the Sherife (vpon the Kings Writ) may leuy such a debt by sale of the parties goods; and in other cases by dis-

8 *The Office of a Sherife*

stresse onely ; according to the forme of the Writ to him for that purpose, first to be specially directed.

In a Writ of Right depending in the Lords Court, the Sherif may grant a Tolt to remouue the Plea into the County Court before himselfe.

They may also amerce a man in this Court.

As if a man bee convicted (before the Sherife in the County) in a Writ of Recaption.

Here he shall be amerced grievously for examples to others.

Yea the defendant shall be amerced in this Court in any suit, if it be found against him.

So the Plaintife shall bee amerced here, if he be *Non suit*; or that the matter be found against him.

So if the Lord shall take an excessive distresse of his tenantry for his rent due.

So if he shall drive out of the County, a distresse taken.

So if the defendant shall not performe his *Levy Gager*, at the day given him.

Also

Also Jurors summoned, & making default, they shall be amerced, if there appears not enough to serue vpon the Jury.

But these amerciements must be affixed *p. parts.*

And yet the Sherife may not leuy the Shiere amerciements, vntill two Iustices of Peace haue the sight of their Estreats & haue allowed the same, &c.

Againe if any contempt or disturbance be made to this Court before the Sherife, or his Steward, they may amerce the offenders, and such amerciements shall not be affixed.

For any amerciement in this County Court, the Sherife may distreine throughout all the County.

And the Sherife shall haue all such amerciements to his owne vse and behoofe as it seemeth (*hic 124.*) And these amerciements are more or greater in some Counties, and lesse in other Counties, according to the vse and custome of euery County: & yet the Sherife is not to amerce offenders outrageously or grieuously, but hauing regard to the quantity & quality of the offence.

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to be given and pronounced by the Coroners, sitting with the Sherife in the Countie Court. See *hic cap. 110.*

3 Proclamations also are to be made by the Sherife in his full Countie Court, in these cases following:

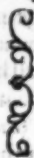
For summoning of the Parliament, *Hic cap. 91. 102.*

For laying the expences of Knights of the Parliament, *Ibidem.*

In cases of Vclawrie, *Hic cap. 110. & 59. & 102.*

Vpon a Writ *de Excom' Capiendo*, *Hic cap. 102.*

In Cases of Ryots, *Hic cap. 102.*

Vpon the		<i>Admeasurement,</i>
ground Di-		<i>Hic cap. 49. 102.</i>
strelse in		<i>Mesur, Hic cap.</i>
Writs of		<i>102.</i>
		<i>Ward, Hic cap.</i>
		<i>192.</i>

CHAP.

CHAP. II 6.

1 **K** Knights for the Parliament.
Coroners for the Countie.
Verderers for the Forrest :

The election of all these is to be by the Kings Writ (directed to the Sherife) and in the open and full Countie Court.

And these must be all chosen by the Freeholders of the Countie.

And they are to be published there, and after the Sherife is to returne and certifie into the Chancerie, the election (of euerie such Knight, Coroner, and Verderer) & the names of those which are so chosen.

The Sherife is there to minister to the Coroners and Verderers their seuerall Oathes , for the due execution of their Offices, as also the Oath of Supremacie.

The formes or effect of their oathes, see my booke at large.

2 Iudgements Vpon Vrlawries are
to

The Office of a Sherife.

CHAP. II. 7.

Concerning the Sherifes Officers.

First it is meete & safe for the high Sherife to take good securitie from his vndersherife, and other his officers, &c. the which is vsually done by couenants, and bonds.

Some doubts haue been concerning the validity of these bonds; but the Statute of 23. H. 6. doth make voide onely such bonds as are made to the Sherife, by prisoners, or persons arrested, or for their deliuerance: And those bonds taken by the Sherife, of his vndersherifes, bailifes, and other officers with condition to saue the high Sherife harmelesse, are good.

Some thinke better of meete couenants made by Indentures betweene the sherife and his vndersherife especially, with three or foure good Surerries, all of them to couenant ioyntly and severally for performance of the couenants

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nants; yet bonds to performe such covenants also, will make the officers the more carefull.

The formes of such covenants and bonds, see in my booke at large.

All and every of the Sherifes officers before they intermeddle in their office shall take two oaths. *scz.* the oath to the Kings supremacy, and the oath for the true exercise of their office, *Sub panna 40. li.*

The oath of there office, see Statute 27. *Eliz 12.* for the forme thereof.

The substance of this oath is, for the true, speedie, and indifferent returning of Writs, and impanelling of Iuries, without taking above the fees allowed.

If any of them shall commit or doe any thing contrarie to their said oaths, or either of them, they are punishable.

And these Oathes they must take before one of the Iudges of Assise, or before the *Custos Rotulorum*, or two Iustices of Peace, (the one beeing of the *Quorum*) of the Countie where they are in such Office.

None

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None of the Sherifes Officers shall be an Attorney in any of the Kings courts during the time their said office.

No Vnder-Sherife nor Sherifes Clerke shall abide in his Office about one year, *sub pena 200.li.*

No Vnder-Sherife, or Sherifes Baylife, shall be in that Office againe within three yeares, except in London and Bristoll, &c.

Deputies.

The Vnder-Sherife is the High-Sherifes generall Deputie, and vieth the place in the right of the High-Sherife.

The Sherife also must make a Deputie of Record in euerie of the Kings Courts at Westminster. *Hic cap. 2.*

He must also make Deputies in his Countie, to make Repleuins, (foure at the least, & not dwelling aboute twelue miles one from another) which Deputies may in the Sherifes name make Repleuies, &c. in such manner as the Sherife himselfe may doe. *Ibid.*

The Sherife shall be amerced for the defaults of his Vndersherife.

CHAP.

CHAP. 120.

Baylifes of Hundreds.

These also are to be appointed by the High-Sherife, and are chiefly to execute writs, to summon the Assises and Sessions, and the like.

The Sherife must appoint such for whom he will answer.

These Baylifes would be such as do know each mans person and land in their Hundred, and their abilitie to serue vpon Iuries, that so they may the better summon them to appeare, &c. when they shall be appoynted.

They ought to haue sufficient lands in the same Countie.

They ought to be knowne men, true and credible persons.

They must bee sworne in the full Councie, *scz.* to the Supremacie, and for the due execution of their Office, *sub poena 40 li.*

They may not let their Office to any

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any other.

The execution of all Writs ought to be done by them.

And yet speciall Baylifes are now vsually allowed to serue Procelle, and are not sworne as the other.

But no Districte shall be taken but by a Baylife knowne and sworne.

These Baylifes of Hundreds ought to attend the Iudges, and the Iustices of peace, at euerie their Sessions: And are also to execute all Precepts & Warrants directed to them from the sayd Iudges or Iustices, for the administration of Iustice.

Note that it is parcell of the Sherifes Oath, to take no Baylifes but such as be true men, of sufficient estate, and such as he will answer for, and that they take the oath for the due execution of their Office.

Note also that it is parcell of the Sherifes Oath, not to let to farme his Sherifewicke, nor any of his Baylirwicks, &c. And therefore their granting of their Office of Vnder-sherifewicke, with the Fees, profits, Courts, Perquisites,

sits, and other Commodities to the Office belonging, seemeth to bee both against the Statute, and against their Oath; for such Officers as the Sherife putteth in, ought to be but as his vnder Officers and seruants, and ought not to doe or take any thing but as seruants to the Sherife, and in his onely right. See *hic cap. 3.*

CHAP. 121.

Baylifes of Franchises or Liberties.

THESE are such as be appointed by Lords within their Liberties, to do such offices within the precinct of such Liberties, as the Baylifes of Hundreds doe within the Countie or Hundred: and a principall part of their Office consisteth in the due executing of all Precepes directed to them from the Sherife, and in their due returning thereof to the Sherife.

These Baylifes also (before they meddle, &c.) must take the Oaths to the Supremacie, and for the due exercising of their Office.

Ee These

The Office of a Sherife.

These Baylifes (of Liberties which haue returne of Writs) cannot arrest a man without a warrant first made to them by the Sherife, by force of the Kings Writ in the Sherifes hands.

These Baylifes hauing receiued the Sherifes Warrant, when that they haue executed the same, they must make their returne thereof to the Sherife (vnder their hands, &c. by Indenture) and the Sherife may not alter the same:

If a Baylife of a Franchise shall arrest one by a Warrant (vpon a *Capias*) to him directed from the Sherife, yet the Obligation (taken for the appearance of the partie) must bee made to the Sherife, and taken by the Baylife in the Sherifes name, But they may baile such persons being in their custodie, as Sherifes may; and may take the like Obligations for the appearance of the partie by them to be bayled.

No Steward, Baylife, or Minister of Lords of Franchises, which haue return of Writs, shall be an Attourney in any any Plea within the same Franchise.

Baylifes of Liberties shall take such
Fees

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fees, as the Statutes do allow the Sherife and their Officers.

These Baylifes shall bee attendant vpon the Iudges of Assise, &c. and Iustices of Peace at euerie of their Sessions: And shall execute all Warrants directed to them from the said Iudges or Iustices, for ministration of Iustice within their Libertie.

They must haue sufficient lands within the Countie.

They shall be punished for insufficient returnes of Writs made by them: and yet when they haue executed their Precept directed to them (from the Sherife,) they are to make their returne thereof onely to the Sherife, and not into the Court.

The King shall haue all Fines, amerciaments, Issues, and Forfeitures, lost by any Officers of Franchises.

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CHAP. 123.

Gaolers.

BAylifes of Liberties and Gaolers, must certifie the names of every prisoner in their custody for felonie, at every generall Gaole delivery in that Countie, or Franchise.

The Sherife shall have the keeping, charge and rule of the common Gaole, and of the prisoners therein : and must put in such Keepers, for whom he will answer.

If the Gaoler shall suffer a felon to escape voluntarily, the Sherife or Gaoler may be indited of felony for the same. and if it were by negligence, they are fineable.

If the Gaoler shall suffer a prisoner to escape, which is in prison upon an Execution, or which is committed to prison by Auditors, &c. the Sherife is chargeable for the whole debt &c.

Hee that hath the keeping of the Gaole, by right or wrong, shall be

be charged for the escape of prisoners.

All Felons shall be imprisoned in the Common Gaoles.

Notorious Felons, and such as be of euill name openly; or be rebellious, shall haue strong and hard imprisonment.

Also Accomptants, and such as are in Execution for Debt, &c. may be put in Irons or fetters, in reasonable manner.

If the Gaoler will not receiue a prisoner brought vnto him, the Gaoler is fineable: and if the prisoner thereby escapeth, the Gaoler shall answer the debt if the prisoner were taken vpon an execution; and if the prisoner were taken for felony, this escape seemeth to be felony in the Gaoler.

Gaolers may not take any obligation for the enlargement of any of their prisoners.

Gaolers need not to remouue any prisoner vpon a Writ of *Habeas corpus*, except it be signed with a Iudges hand.

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CHAP. 124.

Their Fees and allowances.

Sherifes nor their Ministers ought to take no reward, or other thing for doing of their Office, but onely of the King, or that which is appointed for them to take by the Statutes and Lawes of this land, and if they doe otherwise, it is extortion, and fineable, and a breach of their oath.

They may not take, receive, lenie, or gather any amerçiements, or other duties, which are not due, or more then is due, or before it be due, if they doe, it is extortion.

If they take any thing for expedition, it is extortion.

So if they take any reward, &c. for sparing a Juror.

So if they take any thing, to omit any arrest, &c.

So if they take any thing to shew fauour to any person arrested.

So

So if they take any thing to spare any person from appearing at the Assises, Sessions of the Peace, or the like.

So if they take any thing to spare any suitors from appearing at their Turne, &c.

Prisoners discharged by the Court, if any Officer shall deteine them for any meate or other thing, except onely for their due fees, it is extortion.

They shall receiue felons, without taking any fee.

They shall receiue seruants committed for departing, or refusing to serue, without any fee taking vpon their deliury.

They shall receiue all Writs, without taking any fee.

Their fees allowed them by the Statute of 23. *H.6.* are these.

	For the Sherife. xx.d.
Vpon an arrest or Attach-ment.	For the baylife who maketh the arrest or attachment iiij.d.
	For the Gaoler, if the prisoner be committed iiij. d.
	E c 4 For

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For the obligation for
appearance if the prisoner
be bayled. iiij.d.

For any precept or warrant making. iiij.d.

And yet if the warrant be made to a speciall baylife, then they vse to take for euery name ii.s. whereas there is no fee due to the Sherife vntill the arrest be made.

Also for the copping of the warrant, they vse to take iiij. d.

Quere how these two last bee warrantable.

If the baylife of a Franchise shall arrest one by a *Capias* to him directed from the Sherife, the baylife of the Franchise shall haue but iiij.d. the Sherife xx.d. and the Gaoler iiij.d.

For the copping of a Pannell, that Statute alloweth them. iiij.d.

For the making of a Pannell, they are to take nothing. 22.H.6.10.

And yet for the impannelling or returning of a Iury, the Statute of 27. *Eliz. Cap. 12.* seemeth to allow them. ij.s.

The

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The Statutes 29. *Eliz.* 4. alloweth them for serving an execution or extent, (vpon the body, lands, or goods of any person) xij.d. of and for euerie xx.s. where the sum exceedeth not C. li. and vj.d. for euerie xx s. being aboute the summe of C.l. that they shall leuy, or extend and deliuer in execution, or shal take the body in execution: for the Statutes 31. *Eliz.* cap. 3. alloweth them xij.d. for making Proclamation at the Church doore, vpon an *Exigent*.

Other Fees belonging also to Sherifes, or at least claymed and taken by them,

Their fees for Returnes, scz.

- f Of euerie *Capi corpus* iiij.d.
- f Of a *Nihil*. iiij.d.
- f Of a *Non est inuentus* iiij.d.
- f Of any Proclamation. xij.d.
- f Of a *Venire facias*. xij.d.
- f Of an *Habeas corpus*. ij s. iiij.d.
- f Of a *Distingas*. ijs. iiij.d.

OF

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Of a *Recordare* ij.s.

Of an *Accedas ad curiam*. ij.s.

Of a *Distring' nuper vicecom'*.
ij. s.

Of *Mandam balliuo Libertatis*.
iiij.d.

Of an *Exigent*, *scz.* for euerie
name returned outlawed. iiij.d.

Of *Non est inuentus* vpon an
attachment out of the Chan-
cerie. ij.s.

And yet by the Statute of 23. *H. 6.*
cap. 10. it seemeth that they are to take
nothing for the making of any Re-
turne.

Also for the allowance of a *Superse-
deas*, if it be after the returne of the
Exigent, they vse to take xij.d.

And for a Repleuin by pleynt in the
County. ij.s.

For executing of these Writs fol-
lowing, Sherifes vse to take as they
and the parties can agree. *scz.*

For

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Of a Writ to enquire of damma-
ges.

Of a Writ to enquire of Wast.

Enquiry vpon an *Elegit*.

And so in all cases where the
Sherif maketh any Inquisition
by a Jury.

Also to execute a Statute.

Or an *Habere facias Seisnam*.

Or an *Habere facias visum*.

A Writ of Right.

A Writ *de partitione facienda*.

For remoouing the Surcharge of
Common;

The Writ of forcible Entrie; Or
holding with force where the
party is to be restored.

For Execution of a Iudgement,
super breue de dote.

See the Statutes 34. *H. 8. cap. 26.*
which alloweth diuers fees to the She-
rifes in Wales.

All amerciaments, fines, and other
profits, in the Sherife Turne, do belong
to the Sherife.

The Sherife is to haue diuers profits
of

For Executing, &c.

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of the Countie, vnder the name of
Viscountiels.

The Sherife is to haue all amercia-
ments assessed or set in the Countie
Court, *Hic cap. 115.*

He is also to haue for the entring of
Plaints, Procelle, Ples, and Iudgments
in the Countie Court, the Fees due and
accustomed.

C H A P. 125.

Their Accounts.

The Time,

BY the Statute of *Scaccario*, made
Anno 51. H. 3. Sherifes shall come
to the profer, (and make their accounts
and payments) in the Exchequer, the
morrow after Saint *Michael*, and the
morrow after the *Utas*, (or the *Qlta-*
nes) of Easter: And this they must do
by Atturney, or may respice it by the
Kings Writ.

Writ.

But now in *Hillaris* Terme next af-
ter, they are out of their Office, the
High-Sherife or Vnder-Sherife of most
Shires,

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Shires, are sworne to yeeld and giue a iust and true account (to the King and his Officers in the Exchaquer) of the Kings debtes which they shall be charged withall by the greene Waxe (or Estreats out) of the Exchequer ; and of all Waifes, Estrays, and Felons goods, which hapned within the compasse of their Office ; and of all other profits whatsoever due and belonging to the King, and chargeable by them to answer for by reason of their Office ; or much to this effect : but for that the formes of the Recognisance, as also of the Oath it selfe, doth more plainly manifest these things, amongst others, I wil here set them downe as I haue receiued them.

*The forme of the Recognisance
is thus :*

Memorandum qd' A.B. armiger nominatus vic' com' Cantabr' & Hunt' C.D. & E. F. de &c. vener' coram Baron' de Scaccario domin' Regis apud Westm' die Annoregni dom'

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dom' Regis nunc Caroli tertio in proprijs personis suis & recognouer' se debere eidem dom' Regi ——— 120.li.

Sub conditione quod si pradiet' vic' prostra sua ad hoc Scaccar' dom' Regis in Crastin' Clausi Pascha & Sancti Mich. Archangel' prox. futur' de exu' balline sue faciend. fuerit ad tantas denar' summas vel meliores quantas aliquis pdecessor' suor' nuper vic' com' p'd ad pradiet' crastin', in aliquo anno, quatuor annor' prox' prateru'; melius fecerit, ac eadem profera sic faciend' infra mensem quorumlibet eorundem festor' Pascha, & Sancti Mich. Archangel. domin' Regi nunc ad receptum huius Scaccarij, bene & fideliter soluerit. Ac etiam si idem vic' comparuerit per se, vel per Attornatum suum sufficient', coram Baron' domin' Regi nunc in dicto Scaccario termino Pascha prox' futur', (scilicet) ante pradietum mensem Pascha, ad faciend' dom' regi fidelem visum compiti sui, de exu' balline sue: Et huiusmodi visum ibidem ante eundem mensem Pascha, bene & fideliter

fideliter fecerit, & de omni eo quod dicto domin' regi super visum compiti illius deberi contigerit; eidem domino regi ante tres septimanas Sancta Trinitatis tunc prox' sequen', bene & fideliter fecerit, aut seipsum inde aliter erga dictum domin' Regem legitime exoneraverit & acquietaverit. Ac etiam si idem vic' coram dictis Baronibus huius Scaccarij in Quind' Sancti Hillar' quod erit in anno Dom' 1628. personaliter comparuerit, ad reddend' dicto domino Regi fidelem compit' de exit' & profic' ballina sua, ac fidelem compit' pramissorum eidem Domino Regi fecerit & reddiderit, ac de omni eo quod eidem Domino Regi super Compit' ill' deberi contigerit, prefato Domino Regi citra Crastin' Ascensionis Dom' tunc prox' sequen' bene & fideliter satisfecerit, aut seipsum inde aliter legitime exoneraverit & acquietaverit: Ac etiam de omnibus bonis & catallis, ac de exit', terr' & tenement' folonum fugitivorum, felon' de se, & in exigend' posit' condemnat' & utlagat'; necnon de alijs quibuscunque Domino Regi, ratione pra-

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*Prærogativa, seu Regia sua siue alio quo-
modo pertinen^t, qua ad manus ipsius
Vicⁱ, aut eius sub-Vicⁱ, vel Balliuorⁱ
aut alior^{um} Officior^{um} aut Ministrator^{um} suo-
rum quorumcunque, si qua fuerint tem-
pore, quo idem A. B. fuerit Vicⁱ Com^{itis}
prædictⁱ, absque aliquo conceleamento
infra idem tempus fecerit & reddiderit.
Et de omni eo quod eidem Domino Regi
super finem compiti illius deberi conti-
gerit: Dicto Domino Regi bene & fi-
deliter, in forma prædictⁱ satisfecerit.
Ac si prædictⁱ Vicⁱ, Attorn^{us}, siue de-
putat^{us} suum, habilem & sufficientem in
Curia hic eadem Curia seden^{tes} habuerit
& assignauerit, qui eidem Curia de
tempore in tempus attendet ad recipi-
en^{da}: & retornand^{um} breuia & mandata
eiusdem Cur^{iæ} iuxta formam Statuti in-
de editi & promissi. Quod tunc prædictⁱ
recogn^{oscatur} pro nullo habeatur, alioquin
in suo pleno robore permanere & effect^{um}.*

*The forme of the Oath of a Sherife
for the passing of his account.*

You shal sweare that you shall yeald
vnto the Kings Maiestie that now is, a
true and lawfull account of the issues
and profits of your said Office of She-
rifealtie in his Maiesties Counties of
Cambridge and Huntingdon, due vn-
to his Maiestie from the Feast of Saint
Michael the Archangell, in the second
yeare of his Maiesties raigne, vntill the
same Feast now last past, (which is for
one whole yeare) and in the same ac-
count you shall make true answere of
all Felons goods, ourlawed mens
goods, attainted mens goods, Waifs, E-
strayes, & all other profits whatsoever
which hath come to your hands, your
Vnder-Sherifes hands, or any of your
Baylifes, Officers, or Ministers hands,
by reason of your said Office. And in
the same account you shall charge your
selfe with all summes of mony, as you,
your Vnder-Sherife, or any of your bai-
lifes or Officers for you haue leuied, or
F f lawfully

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lawfully might haue leuied to his Ma-
iesties vse. And in the same account
you shall make no petition, aske no al-
lowance nor discharge, but such as
shall be good and true, and that you
deliuer a true declaration of your Vis-
countiels, declaring of whome, and
where you doe receiue, and wherefore
all such summes of money contained in
the same. And well and truly behaue
your self in yeelding the same account,
as a true accountant ought to do with-
out omission or concealment. So help
you God.

Now by an old Statute of 1. *Edw. 3.*
cap. 4 the account of Sherifes and other
such Ministers shall be after the points
of their Oath.

And yet by some opinions the She-
rife is not accountable for goods of Fe-
lons, Fugitiues, and the like, saue in a
grosse summe for the same of the pro-
fits of the Countie.

Neither is the Sherife accountable
for other the profits of the Countie,
(which runne vnder the name of Vis-
countiels) saue in a sum in grosse for
the

the same of the profits of the County.

Now what the profits of the Countie be, see *hic cap. 3. & 9.*

If any Fines or Amerciaments called *Mulfæ*, be set or assessed in any of the Kings Courts, vpon any man; or if any arrerages or accounts called *Reliqua*, of such things that is of Customes, Taxes, Subsidyes, Tenths, and Quinzimes, and the like, be, (and be estreated out of the Exchequer to the Sherife) the Sherife of the Shire is to gather vp the same, and is accountable therefore in the Exchequer. But for the ordinarie rents of the Kings lands, and most commonly for the Taxes, Subsidyes, Customes, Tenths, and Quinzimes, there be particular Collectors and Receivers, which do gather vp, and answer the same into the Exchequer.

What other things Sherifes shall be accomptable for, appearth in part here before, *Cap. 3. 7. 9. 10. 11. 12. 13. &c. ad cap. 20. & 76.*

And wheresoeuer the Sherife (vpon proceffe out of the Eschequer, or with-

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out procces) shall leuy, take, seise, or gather vp any debt, or other duty, or profit, due to the King, he is accomptable or chargeable for the same.

Yet Sherifes shall not be accomptable, but onely for their owne times,

Quare.

Euery Sherife (by himselfe, his attorney, or deputy) shall bee sworne at his day of prefixion, to bring and deliuer into the Eschequer, Rolls of parchment of all such particular sums of money, which he hath, or might haue leuyed, making mention of what person, of what lands, and for what cause, any of the said summes be.

If the Sherife (or his Officers) shall gather the Kings rents, or shall leuy the Kings debts or other duties, and shall not accompt for the same in the Eschequer, the Sherife is liable both to the King, and to the action of the partie grieved; besides the danger of his oath.

If the Sherife shall seise the goods of one that is outlawed (or for any other cause,) and shall not vpon his account

an-

answer the King for the same, hee is chargeable both to the King, and party, &c. For note that the Sherife (in an action of trespasse, &c. brought against him by the owner of those goods) must plead that he hath accounted for them.

Note also that the High Sherife is accomptable to the King, for all things belonging to the office of the Sherife, and the Vndersherife is accomptable to the High Sherife.

The manner of the Sherifes account, see in Master *Wilkinson* of the office of Sherifes, fol. 36. 37.

For the ordinary charges of the passing of their accompt, See *ibid.* fol. 38. 39. 40. & 41.

None of the Sherifes of the Counties of Surrey and Suffex, Essex and Hereford, Sommerfet and Dorset, Warwicke and Leicester, Nottingham and Derby, or Oxford and Berks^h. (besometimes ioyned) shall pay in any Court of Record, for any duely belonging properly to the Office of a Sherife, any other fees or charges, than on-

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ly the one halfe of the charges and fees which he should haue paid if hee had beene Sherife of two of the said shires, as formerly was vsed: And their charges and rewards, &c. shall bee diuided.

By the Statute of 5. R. 2. cap. 11. the accompts in the Eschequer shall bee more speedily heard, made, and ingrossed, than they were wont, &c.

Before the Sherife come to his accompt, (or Opposals before the forreine Opposer) let him be carefull, fully and truly to learne which are good debts, and which are not, and which are within Liberties, and which are not: For with the forreine Opposer, the Sherife must either *Tot*, *Nihil*, or set ouer into Liberties, all the debts & sums of mony con. eined in the summons of the greene waxe, and in the Extracts of the peace of the County where he was Sherife; and therefore hauing first learned which be good debts and which not, and which be within Liberties, and which not, he may make his booke of all his charge accordingly.

What

*What allowances they shall haue
vpon their Account.*

All Sherifes shall haue such tailes of Reward, and other allowances as they haue heretofore had.

Also they shall bee discharged vpon their accounts (in the Eschequer) vpon oath, of such summes of money which they cannot leuy. See the Statute 2. & 3. *Ed. 6. cap. 4.*

Sherifes shall haue allowance by there oath, of the issues of their Countie.

They shall haue allowance vpon their accounts, by their oaths, of things casuall; but not of such things as remaine in yearly farmes, or yearly demands.

If an accountat (being Nichilled) will sweare that hee oweth nothing to the King, he shall be therupon discharged. Statute 5. *R. 2. cap. 13.*

Sherifes vpon petition, and bills brought in vpon oath, shall haue allowance for their charges and expences

F f 4 which

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which they sustaine by the Dyet of the Iustices of Assise, and other meanes &c.

Sherifes also shal haue allowance for their charges or wages of the Iustices of Peace at their quarter Sessions; but the Sherifes allowance herein is but foure shillings a day a peece for eight Iustices.

Note that all fines, amerciaments, issues, forfeitures, and penalties whatsoever arising before the Iustices of peace at their Sessions, are to be estreated by the Clarke of the Peace (out of the records of the Iustices) and to bee indented by him, and then to bee delivered one part to the Sherife to leuy the same thereby, and the other part to bee certified to the Barons of the Exchequer: And the Sherife is accountable for the same in the Exchequer, vpon those estreats so certified into the Exchequer; and so in many places the Sherife payes them to the King, and neuer hath them againe nor any allowance, (saue onely foure shillings a day a peece for eight Iustices *ut supra*)
and

and the surplufage is in many Counties purfed vp by the Clarkes of the peace, who receiues all the fines, and thereout payeth (or might pay) the Iuftices wages and then deliuer the refident the Sherife, and fhould make his eftreats accordingly.

The courfe of the Efchequer is faid to be thus, *ſcx.* that ſo ſoone as a ſherife hath entred into his account for iſſues, amerciaments, or meane profits for intruſions, and alienations without licence, to marke vpon his head. *O. Ni,* which is as much as, *Oneratur Niſi habeat ſufficientem exonerationem, &c.* and preſently the ſherife is thereby become the Kings debtor, and a *debet* ſet vpon his head. And ſo ſoone as the ſherife is become the Kings debtor of record *vt ſupra*, the other parties are alſo preſently become debtors to the ſherife; And the ſherife in that caſe ſhall cauſe the debt to be leuied againſt thoſe particular perſons by a *Conſtat.* But where the King by Parliament ſhal pardon all Iſſues, Amerciaments, and Intruſions, &c. if the Sherife after ſuch
pardon

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Pardon shall enter into his account, without taking aduantage of the Pardon, here the Sherife is chargeable to the King by his owne follie, and the particular persons are at libertie, and shall haue aduantage of the Pardon, &c.

Amongst other things it is behoofe-full for Sherifes and Vnder-Sherifes, vpon the making of their accounts, to haue a speciall care of their Totting & Nichilling, (*see* What they Tott or charge, and what they Nichil or discharge) and that they charge or discharge men orderly, honestly, and with vnderstanding; for what they Tott or charge, though it can neuer be leuied, yet it will hardly bee auoyded, but it must be paid; and if it be Nichilled, if it be Issues of Jurors, though they bee neuer so bad, and cannot be leuied betwene the old Sherife which returned them, and the new Sherife which Nichilled them; they must be paid though it be seuen yeares after, if there come no pardon in the meane time.

The Sherifes discharge.

Where they shall be discharged vpon their accompt and oath of such summes as they can not leuy. *See *antea.*

Sherifes hauing here *Quietus est.* they, their heires, executors and administrators, and their lands, tenements, goods and chattells, shall be absolutely discharged of their accomptes (*scz.* of all manner of summe or summes of money, which they shall haue leuiued or receiued, and shall be pterended not to be accompted for, &c.) vnlesse such Sherife shall be called in question for the same within foure yeares after the time of their accompt and *Quietus est.* Stat. 21. *Iacobi cap. 5.*

And every Officer that shall send out any Proces, or by whose default any Proces shall be sent out contrary to the said Statute, shall for every such offence forfeit to the party griued 40. l. and besides shall pay costs and dammages, &c. *ibid.*

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CHAP. 126.

*The principall matters wherein
there is any great danger
to Sherifes,*

IF any Sherifes shall exercise his Office, before he hath taken his oaches, (*scz.* to the Supremacy, and for the due Execution of his Office) he is punishable in the Starre-chamber.

So if he shall not performe his oath concerning his Office.

He must put in sureties by Recog^r in the Eschequer before he exerciseth his office, *sub pœna*, C.l.

He may not abide in his Office above one yeare, *sub pœna*. 200.l.

Hee may not be in that Office againe within three yeares, *sub pœna*, 200.l.

He may not let to farme his County, &c, nor his Office in any manner, *sub pœna* 40.l.

He must appoint Deputies in the Courts

Courts at Westminster, before hee returns any Writ, *sub poena* 40-l.

He must appoint Deputies (foure at least) to make Repleuies in the country, *sub poena* for euerie moneth, 5.pound.

Escape.

Vpon an escape of a felon voluntarily suffered by his Gaoler, the Sherife may be indicted of felony. (*Quare tamen*) but at least it seemeth the She-may bee fined to the value of his goods.

Also for a negligent escape he may be fined.

If he shall bayle a prisoner who is in for felony (except it be by speciall Writ) it is felony.

If he shall conceale any felony done within his County, hee shall haue one yeares imprisonment, and bee fined at the Kings pleasure.

Vpon an escape of one taken in execution for debt or dammages, hee is chargeable for the whole.

If an accomptant committed to prison by Auditors, be bayled, or suffered to goe at large, without consent
of

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of the Master, the Sherife is chargeable for the whole debt.

If the Accomptant be brought to the Gaole by the Auditors, and the Gaoler will not receive him, whereby he escapeth, the Gaoler or Sherife is chargeable for the debt.

If a felon sent to the gaole, bee refused, and so escape; *Quere* if it bee not a voluntary escape, so felony in the gaoler at least.

If the Sherife shall make any warrant without an Originall, he shall forfeit 20. l. to the King, and 10. l. to the party, and be committed *quousque*.

Arrest.

Vpon any arrest to be done, if they (or their Officer) take any thing to omit the arrest, or otherwise not to do their duty, they forfeit 40. l.

So if (for any reward) they shew fauour to any person arrested.

So if they take any fees contrary to the statute.

So if they detaine any prisoner being bayleable, after sufficient Sureties offered.

So if they bayle any prisoner which

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is not bayleable; the Sherife for euery of these shall forfeit 40.l.

They ought to array their Pannells for the Assises, sixe dayes before, *sub pœna* 40.l.

They must deliuer copies of such Pannells as they returne for Trialls, to each party demanding the same, *sub pœna* 40.l.

They must returne Pannells, as they shall be reformed by the Iustices, *sub pœna* 20.l.

They must returne none of their seruants or Officers vpon any Iury, *sub pœna* to pay treble dammagés and 40.l.

They must returne sufficient Iurors to enquire of Riots, &c. *sub pœna* 20.l.

They must returne due Issues vpon euerie Iuror, *sub pœna* 20.li. in some Cases, and in some Cases 40.li.

If they make a false Returne vpon a *Capias Excom'* they forfeit, 40.li.

The Sherife hath been amerced at fiftie markes for his false returne of an *Exigent*.

The

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The Sherife fined at 40. l. for not returning an *Habeas Corpora Intra-
tor*.

Sherifes not returning, false returning, or misreturning of any Writ, shall pay such fine or amerciamment as shall be assessed by the Iustices.

So if the Sherife returneth a Writ, without setting his name there-to.

Parliament.

Sherifes not making due election of Knights for the Parliament; or making a false returne thereof, shall haue one yeares imprisonment, and forfeit 200. l.

If they be negligent in making returne of this Writ, they shall haue one yeares imprisonment, and besides shall forfeit 100. l.

So if they leaue out of their returne of this Writ, any City, or Burrough, which ought to come to the Parliament.

They must assesse according to the statute, euery hundred and towne, towards the wages of the Knights of the Parliament, *sub pena* 30. l.

If

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If they shall leuy vpon any towne, more then is so assessed, they shall forfeit 30.l.

So if they shall not pay and deliuer the same, mony, &c. they shall forfeit 30.l.

They may leuie no issue without Issues-warrant, *sub poena* to be fined to the King, and to pay treble dammages to the party grieved.

They may leuy no debt for the Debt. King, without shewing to the party the Estreat of the same, vnder the seale of the Eschequer, *sub poena* to bee fined, and to pay treble dammages.

So if they shall leuy any duty for the King, or for any subiect, without warrant, and shall after conuert it to their owne vse, &c.

They must execute the Writ directed to them (vpon the Statute of 31. H. 6. cap. 9.) for inforcing Women to enter bonds, *sub poena* 300.l.

If any Subiects Cater shall take any goods, or carriage against the will

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will of the owner, the Sherife vpon request, must ayde the owner, *sub pœna* 20. l.

Repleuie.

Vpon making any Repleuin, they must take pledges *de prosequendo, ac de Retorno habendo*, or els they shall answer the price of the cattell or goods, if returne be after awarded.

Riots.

If the Sherife or (Vnder-Sheriff shall not ioyne with the Iustices of Peace in executing the Statute against Rioters, he shall forfeit 100. l.

They must ioyne with the Iustices in certifying the names of the maintainers, &c. by whose meanes the truth of the riot cannot be found, *sub pœna* 20. l.

They must make due execution of the Iustices warrant for returning of Inuries, to enquire of forcible Entries, or Riots, &c. *sub pœna* 20. l.

• They are to execute the Proces of the Iustices of Peace, granted out against seruants departing into other liues, *sub pœna* 20. l.

Indictments taken in their Turne, they must certifie at the next Sessions of

of the Peace, *sub pœna* 40.l.

They must not arrest any person, nor take or leuy any fine or amercia-ment, &c. of any person indicted in their Turne, without Proces or Estreats from the Iustices of Peace, *sub pœna* 100.l.

Sherifes also may be punished in the Starre-chamber for diuers of these their former misdoings, as for their vntrue demeanings in making of Pannels, & other vntrue returns, or for taking of bribes, or vndue fees, &c. 3. *H. 7. cap. 1.*

Also Sherifes in diuers of these and other cases, shall not onely be fined or amerced, but also shall be liable to the action of the parties grieved for things misdone, or not done, by them, or by their Officers, for which in part I re-ferre you to my booke at large.

Solo Deo gloria.

Deus

Minimis

Magnus.

FINIS.

Gg 2

A



A Table of the Con- tents of euery Chapter.

Sherifes,

Cap.

THeir Name , Antiquity , and
Charge.

What they must first doe, scz.

1 Enter Recognisances.

2 Procure their Patents.

3 Take their oathes.

4 Take from the old Sherife all
prisoners and Writs by Inden-
ture.

5 In full County must reade his
Patents ; and name his Depu-
ties.

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Must

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